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United Nations

Report of the Committee on the Elimination of Racial Discrimination

Sixtieth session (4-22 March 2002)
Sixty-first session (5-23 August 2002)

General Assembly

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Fifty-seventh Session
Supplement No. 18 (A/57/18)

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Letter of transmittal

23 August 2002

Sir,

It is with pleasure that I transmit the annual report of the Committee on the Elimination of Racial Discrimination, which I believe is very relevant in the context of the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in South Africa in September 2001.

The International Convention on the Elimination of All Forms of Racial Discrimination, which has now been ratified by 162 States, constitutes the normative basis upon which international efforts to eliminate racial discrimination should be built.

During the past year the Committee continued with a significant workload in terms of examination of States parties' reports (discussed in chapter III) in addition to other related activities, which led to the adoption of general recommendation XXVIII on the follow-up to the World Conference (see chapter XI), while a thematic discussion on the issue of descent-based discrimination (see chapter X) led to the adoption of general recommendation XXIX on descent-based discrimination (see chapter XI).

As important as the Committee's contributions have been to date, there are obviously some areas for improvement. At present only 41 States parties (see annex I) have made the optional declaration recognizing the Committee's competence to receive communications under article 14 and, as a consequence, the individual communications procedure is underutilized, as indeed is also the inter-State complaints procedure.

Furthermore, only 33 States parties have so far ratified the amendments to article 8 of the Convention adopted at the fourteenth meeting of States parties (see annex I), despite the General Assembly's repeated calls to do so. The Committee appeals to States parties which have not yet done so to consider the possibility of making the declaration under article 14 and to ratify the amendments to article 8 of the Convention.

I would also like to point out that my colleagues consider that if the Committee could hold one of its meetings at United Nations Headquarters, as provided in article 10, paragraph 4, of the Convention, possibilities could be afforded to States without representation in Geneva to have a better dialogue with the Committee.

His Excellency Mr. Kofi Annan
Secretary-General of the United Nations
New York

The Committee remains committed to a continual process of reflection on and improvement of its working methods, with the aim of maximizing its effectiveness (see chapter IX). Accordingly, the Committee devoted a number of meetings during the sixty-first session to this issue and decided to request you to take the necessary steps to enable a working group of the Committee to meet for three working days in advance of each session for the purpose of drafting proposals relating to the organization of the session and formulating lists of issues and questions on the reports of States parties which are to be considered during the session. We hope that it will be possible to initiate these advance meetings as from the sixty-third session of the Committee to be held in August 2003.

I take great personal pride in the dedication and professionalism demonstrated by the Committee members in the performance of their important work. The dynamic pluralism of the membership considerably enhances the quality and relevance of its analytical work in the great diversity of circumstances it is called upon to consider. I remain confident of the Committee's abilities to contribute significantly to the implementation of both the Convention and the follow-up to the World Conference in the years ahead.

Please accept, Sir, the assurances of my highest consideration.

(Signed) Ion Diaconu
Chairman
Committee on the Elimination
of Racial Discrimination

I. ORGANIZATIONAL AND RELATED MATTERS

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination

1. As at 23 August 2002, the closing date of the sixty-first session of the Committee on the Elimination of Racial Discrimination, there were 162 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted by the General Assembly in resolution 2106 A (XX) of 21 December 1965 and opened for signature and ratification in New York on 7 March 1966. The Convention entered into force on 4 January 1969 in accordance with the provisions of its article 19.

2. By the closing date of the sixty-first session, 41 of the 162 States parties to the Convention had made the declaration envisaged in article 14, paragraph 1, of the Convention. Article 14 of the Convention entered into force on 3 December 1982, following the deposit with the Secretary-General of the tenth declaration recognizing the competence of the Committee to receive and consider communications from individuals or groups of individuals who claim to be victims of a violation by the State party concerned of any of the rights set forth in the Convention. Lists of States parties to the Convention and of those which have made the declaration under article 14 are contained in annex I to the present report, as is a list of the 36 States parties that have accepted the amendments to the Convention adopted at the14th meeting of States parties, as at 23 August 2002.

B. Sessions and agendas

3. The Committee on the Elimination of Racial Discrimination held two regular sessions in 2002. The sixtieth (1494th-1523rd meetings) and sixty-first (1524th-1552nd meetings) sessions were held at the United Nations Office at Geneva from 4 to 22 March 2002 and from 5 to 23 August 2002 respectively.

4. The agendas of the sixtieth and sixty-first sessions, as adopted by the Committee, are reproduced in annex II.

C. Membership and attendance

5. There was one resignation from the Committee between the sixtieth and sixty-first sessions: Mr. François Lonsény Fall. By a letter dated 2 July 2002, Mr. Fall notified the Committee of his resignation. By a letter dated 2 July 2002, the Government of Guinea nominated Mr. Mohamed Aly Thiam as successor to Mr. Fall for the remainder of his term in accordance with article 8, paragraph 5 (b), of the Convention. In accordance with rule 13 of its rules of procedure, the Committee approved the nomination of Mr. Thiam at its 1524th meeting (sixty-first session), on 5 August 2002.

6. The list of members of the Committee for 2002-2003 is as follows:

Name of member	Country of nationality	Term expires 19 January
Mr. Mahmoud ABOUL-NASR	Egypt	2006
Mr. Nourredine AMIR	Algeria	2006
Mr. Marc BOSSUYT	Belgium	2004
Mr. Ion DIACONU	Romania	2004
Mr. Régis de GOUTTES	France	2006
Mr. Kurt HERNDL	Austria	2006
Ms. Patricia Nozipho JANUARY-BARDILL	South Africa	2004
Mr. Morten KJAERUM	Denmark	2006
Mr. Jose A. Lindgren ALVES	Brazil	2006
Mr. Raghavan Vasudevan PILLAI	India	2004
Mr. Yuri A. RESHETOV	Russian Federation	2004
Mr. Agha SHAHI	Pakistan	2006
Mr. Linos Alexander SICILIANOS	Greece	2006
Mr. TANG Chengyuan	China	2004
Mr. Mohamed Aly THIAM	Guinea	2004
Mr. Luis VALENCIA RODRÍGUEZ	Ecuador	2004
Mr. Mario Jorge YUTZIS	Argentina	2004

7. All members of the Committee attended the sixtieth and sixty-first sessions.

D. Officers of the Committee

8. At its 1494th meeting (sixtieth session), on 4 March 2002 the Committee elected the Chairman, Vice-Chairmen and Rapporteur as listed below in accordance with article 10, paragraph 2, of the Convention, for the terms indicated in brackets.

Chairman: Mr. Ion Diaconu (2002-2004)

Vice-Chairmen: Mr. Nourredine Amir (2002-2004)
Mr. Raghavan Vasudevan Pillai (2002-2004)
Mr. Mario Yutzis (2002-2004)

Rapporteur: Mr. Patrick Thornberry (2002-2004)

E. Cooperation with the International Labour Organization, the Office of the United Nations High Commissioner for Refugees and the United Nations Educational, Scientific and Cultural Organization

9. In accordance with Committee decision 2 (VI) of 21 August 1972 concerning cooperation with the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO),[1] both organizations were invited to attend the sessions of the Committee. Consistent with the Committee's recent practice, the Office of the United Nations High Commissioner for Refugees (UNHCR) was also invited to attend.

10. Reports of the ILO Committee of Experts on the Application of Conventions and Recommendations, submitted to the International Labour Conference, were made available to the members of the Committee on the Elimination of Racial Discrimination, in accordance with arrangements for cooperation between the two Committees. The Committee took note with appreciation of the reports of the Committee of Experts, in particular of those sections which dealt with the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and the Indigenous and Tribal Peoples Convention, 1989 (No. 169), as well as other information in the reports relevant to its activities.

11. UNHCR submits comments to the members of the Committee on all States' parties whose reports are being examined, when UNHCR is active in the country concerned. These comments make reference to the human rights of refugees, asylum-seekers, returnees (former refugees), stateless persons and other categories of persons of concern to UNHCR. UNHCR representatives attend the sessions of the Committee and report back on any issues of concern raised by Committee members. At the country level, although there is no systematic follow-up to the implementation of the Committee's concluding observations and recommendations in the 130 UNHCR field operations, these are regularly included in activities designed to mainstream human rights in their programmes.

F. Other matters

12. At the 1513th meeting (sixtieth session), on 15 March 2002, the United Nations High Commissioner for Human Rights addressed the Committee. She stressed that the Committee, as the key treaty body for the elimination of racial discrimination, was particularly well placed to gather information on the activities and plans of action to be adopted by States in order to ensure adequate follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The High Commissioner encouraged the Committee, when considering issues raised in those documents, to consider closely the recommendations made in the Durban Declaration and Programme of Action which are of relevance for its work or which may be the subject of future general recommendations. The High Commissioner congratulated the Committee for its intention to adopt a general recommendation on the follow-up to the World Conference.[2] She also congratulated the Committee for the adoption of a statement on the issue of anti-terrorist measures and non-discrimination.[3]

13. The Deputy High Commissioner for Human Rights addressed the Committee at its 1524th meeting (sixty-first session) on 5 August 2002. He welcomed the thematic discussion which the Committee was to hold on descent-based discrimination. He also briefed the Committee on developments that had taken place since the sixtieth session relating to the adoption of draft guidelines on poverty reduction and of a gender-mainstreaming strategy in OHCHR. Bearing in mind the Committee's intention to review its working methods during the sixty-first session, the Deputy High Commissioner highlighted the measures taken by other treaty bodies to follow up on the adoption of concluding observations and recommendations and the creation, within OHCHR, of a new Treaty Bodies Recommendations Unit.

G. Adoption of the report

14. At its 1552nd meeting, held on 23 August 2002, the Committee adopted its annual report to the General Assembly.

II. PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES

15. The Committee decided at its forty-first session to establish this item as one of its regular and principal agenda items.

16. At its forty-second session (1993), the Committee noted the conclusion adopted by the fourth meeting of persons chairing the human rights treaty bodies that:

> " ... the treaty bodies have an important role in seeking to prevent as well as to respond to human rights violations. It is thus appropriate for each treaty body to undertake an urgent examination of all possible measures that it might take, within its competence, both to prevent human rights violations from occurring and to monitor more closely emergency situations of all kinds arising within the jurisdiction of States parties. Where procedural innovations are required for this purpose, they should be considered as soon as possible." (A/47/628, para. 44)

17. As a result of its discussion of that conclusion of the meeting of chairpersons, the Committee, at its 979th meeting, on 17 March 1993, adopted a working paper to guide it in its future work concerning possible measures to prevent, as well as more effectively respond to, violations of the Convention.[4] The Committee noted in its working paper that efforts to prevent serious violations of the International Convention on the Elimination of All Forms of Racial Discrimination would include the following:

(a) Early-warning measures: these would be aimed at addressing existing problems so as to prevent them from escalating into conflicts and would also include confidence-building measures to identify and support structures to strengthen racial tolerance and solidify peace in order to prevent a relapse into conflict in situations where it has occurred. In that connection, criteria for early warning could include some of the following concerns: the lack of an adequate legislative basis for defining and criminalizing all forms of racial discrimination, as provided for in the Convention; inadequate implementation of enforcement mechanisms, including the lack of recourse procedures; the presence of a pattern of escalating racial hatred and violence, or racist propaganda or appeals to racial intolerance by persons, groups or organizations, notably by elected or other officials; a significant pattern of racial discrimination evidenced in social and economic indicators; and significant flows of refugees or displaced persons resulting from a pattern of racial discrimination or encroachment on the lands of minority communities;

(b) Urgent procedures: these would aim at responding to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Possible criteria for initiating an urgent procedure could include the presence of a serious, massive or persistent pattern of racial discrimination; or that the situation is serious and there is a risk of further racial discrimination.

18. At its 1028th and 1029th meetings, on 10 March 1994, the Committee considered possible amendments to its rules of procedure which would take into account the working paper it had adopted in 1993 on the prevention of racial discrimination, including early warning and urgent procedures. During the discussions which followed, the view was expressed that it was

too early to make changes in the rules of procedure in order to take account of procedures adopted only very recently. There was a risk that the Committee might be locking itself into rules which would soon no longer fit its needs. It would, therefore, be better for the Committee to have more experience with the procedures in question and to amend its rules at a later point on the basis of that experience. At its 1039th meeting, held on 17 March 1994, the Committee decided to postpone to a later session further consideration of proposals to amend its rules of procedure.

19. At its 1506th meeting, on 16 March 2002, the Committee reviewed the implementation of the Convention by Papua New Guinea under the early warning procedure. The Committee adopted decision 1 (60)[5] which provides that, in the absence of any indication on the part of the State party that it will comply with its obligations under article 9, paragraph 1 of the Convention, the Committee will consider the implementation of the Convention in Papua New Guinea at its sixty-second session, in March 2003. At earlier sessions the Committee considered the situation in the following States parties under this agenda item: Algeria, Australia, Bosnia and Herzegovina, Burundi, Croatia, Cyprus, Democratic Republic of the Congo, Israel, Liberia, Mexico, Papua New Guinea, Russian Federation, Rwanda, Sudan, the former Yugoslav Republic of Macedonia and Yugoslavia. It also adopted a statement on Africa and another one on the human rights of Kurdish people.

III. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

AUSTRIA

20. The Committee considered the fourteenth periodic report of Austria (CERD/C/362/Add.7) at its 1502nd and 1503rd meetings (CERD/C/SR.1502 and 1503), held on 7 and 8 March 2002, and at its 1520th meeting (CERD/C/SR.1520), on 21 March 2002, adopted the following concluding observations.

A. Introduction

21. The Committee welcomes the updating report presented by the Government of Austria, which focuses on the recommendations made by the Committee in its previous concluding observations (CERD/C/304/Add.64). The Committee also welcomes the regularity of the State party's submission of periodic reports.

B. Positive aspects

22. The Committee welcomes recent developments that have taken place in the field of human rights in Austria. It notes in particular the establishment in July 1999 of the Human Rights Advisory Council, an independent body with a mandate to review and monitor the activities of the law enforcement organs in accordance with human rights principles, as well as the establishment of the posts of human rights coordinator at the Austrian federal ministries and the governments of the nine Austrian Länder.

23. It notes with satisfaction the establishment of the Immigrants Fund to assist new immigrants by providing free advice in their native language on questions concerning their integration in Austria.

24. It notes also the continuation of the work of the Reconciliation Fund for Victims of National Socialism which so far has received and approved some 50,000 applications for compensation from persons who were subjected to forced labour during the Nazi era.

25. The Committee notes the inclusion of provisions aimed at combating racism and xenophobia in national legislation, such as the Industrial Code, the Maintenance of Law and Order Act and media law, in particular the Broadcasting Act and the Regional Radio Act.

26. The Committee further notes with approval the efforts undertaken by the State party to safeguard linguistic diversity in the country, including the adoption of bilingual topographical signs in areas inhabited by Croat and Hungarian minorities.

27. The Committee welcomes the fact that Austria recently made the declaration under article 14 of the Convention recognizing the competence of the Committee to examine communications from individuals or groups of individuals.

C. Concerns and recommendations

28. The Committee is concerned at the wording of article 1, paragraph 1, of the Federal Constitutional Act implementing the Convention, which stipulates that the legislature and the executive shall refrain from any distinction on the "sole" ground of race, colour, or national or ethnic origin. In the Committee's view, this may be regarded as representing a narrower prohibition of discrimination than is provided in the Convention. The Committee recalls that multiple discrimination, for example discrimination based simultaneously on race and sex, falls within the scope of the Convention, and that such phenomena are addressed in the final documents of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. Therefore, while noting that an amendment to this provision is currently under consideration, the Committee reiterates its previous invitation to the State party (CERD/C/304/Add.64, para. 11) to consider the possibility of deleting the word "sole" from article 1, paragraph 1, of the Federal Constitutional Act, taking into consideration general recommendation XXV of the Committee.

29. Concerning articles 2 and 4 of the Convention, the Committee is of the view that the legislation in place to combat racism is not totally adequate to combat discrimination effectively. While noting the existence of provisions in criminal legislation aimed at combating racism, as well as recognizing racist or xenophobia motivations as aggravating circumstances for crimes, the Committee reiterates its recommendation (ibid, para. 11) to the State party to introduce general legislation prohibiting racial discrimination in all its forms.

30. The Committee has difficulty in understanding the distinction made by the State party between autochthonous and other minorities and the legal and practical consequences following from this. The Committee invites the State party to provide further clarification in this regard in its next periodic report.

31. The State party's traditional respect for individual privacy when collecting information on the ethnic composition of the population is noted. However, the Committee expresses concern about the paucity of data at its disposal for monitoring the implementation of the Convention. The Committee wishes to emphasize that it is of fundamental importance to establish basic statistics that indicate how minorities are integrated into society, and invites the State party to find ways to provide such data in its next periodic report, including the percentage of minorities in the workforce and various governmental and private-sector institutions.

32. The Committee is concerned about the significant number of allegations which have been brought to its attention which reflect the existence of racist and xenophobic attitudes among some sections of the population. It is further concerned about allegations of racist incidents involving police officers and other State employees. In the light of general recommendation XIX, the Committee encourages the State party to continue to monitor all tendencies which may give rise to racial or ethnic segregation and to endeavour to combat the negative consequences of such tendencies. The Committee further recommends that the State party strengthen existing educational measures for civil servants who deal with issues involving foreigners. Efforts should be made to recruit more members of minority groups into the public administration, in particular law enforcement.

33. The Committee is concerned at the considerable number of asylum-seekers without identity documents who have been denied public assistance from the Federal Care and Maintenance Programme and who must therefore rely on private assistance and other agencies for survival. The Committee recommends that the State party ensure the provision of basic and equal assistance to all asylum-seekers, without distinction as to race or ethnic and national origin.

34. The Committee also reiterates its appeal to the State party to ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

35. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized. It encourages the State party to insert the Committee's concluding observations on the appropriate ministry's web site.

36. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

37. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth periodic report, due on 8 June 2003, that it be an updating report, and that it address the points raised in the present observations.

BELGIUM

38. The Committee considered the eleventh, twelfth and thirteenth periodic reports of Belgium (CERD/C/381/Add.1), which were due on 6 September 1996, 1998 and 2000 respectively, at its 1509th and 1510th meetings, held on 13 and 14 March 2002 (CERD/C/SR.1509 and 1510). At its 1520th meeting (CERD/C/SR.1520), held on 21 March 2002, it adopted the following concluding observations.

A. Introduction

39. The Committee welcomes the detailed reports submitted by the State party, while regretting the late submission of the eleventh and twelfth periodic reports. The Committee was encouraged by the attendance of a delegation composed of representatives of many government departments at the federal, community and regional levels, and expresses its appreciation for the constructive oral responses of the delegation to the questions asked.

B. Positive aspects

40. The Committee welcomes recent developments that have taken place in the State party in the field of human rights. It notes, in particular the enactment of new laws and the ratification of a number of international treaties, such as the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Rome Statute of the International Criminal Court.

41. The Committee welcomes the declaration made by the State party under article 14 of the Convention.

42. With regard to article 4 of the Convention the Committee notes with appreciation the State party's efforts in the field of legislative reform, especially the amendment to article 150 of the Constitution, which transfers jurisdiction over acts motivated by racism and xenophobia committed through the media to lower instance criminal courts. It also welcomes the imposition of financial sanctions on anti-democratic political parties that disseminate racism and xenophobia.

43. The Committee notes with appreciation the work of the Centre for Equal Opportunity and the Struggle against Racism, and in particular the agreement reached between the postal authorities and the Centre with a view to preventing the distribution of material containing racist propaganda and xenophobic statements.

44. The Committee notes measures taken by the State party to counter the dissemination of racist statements on the Internet.

45. The Committee welcomes the measures taken by the State party to raise awareness of racism and racial discrimination, in particular in the army and among criminal justice officials. It also welcomes the measures taken to limit the information given by the judicial and police authorities to the press regarding the ethnic origin and the nationality of the alleged offenders.

46. The Committee also welcomes the election of a body representing the Muslim communities with a view to maintaining and developing dialogue with the public authorities in Belgium.

47. With regard to article 5 of the Convention, the Committee takes note of measures in Flanders forbidding discrimination, including on racial or ethnic grounds, in collective labour agreements, and of measures facilitating the education of migrant children. The Committee also takes note of measures in the Walloon region for the education of children of illegal migrants and for the study by migrant children of their mother tongue on the basis of bilateral agreements with their country of origin.

C. Concerns and recommendations

48. The Committee notes that the primacy of the provisions of the Convention over internal laws depends on the evaluation by the judge as to whether such provisions are directly applicable. It recommends that the State party include in its next periodic report specific information on the status of the Convention in domestic law and on court cases, if any, in which the Convention was invoked.

49. The Committee notes that a draft general law on racial discrimination is under consideration by the Parliament and encourages the State party to adopt it as soon as possible.

50. The Committee notes that no reference is made in the report to article 3 of the Convention. The Committee recommends that the State party provide in its next periodic report relevant information on any trend towards segregation of communities, especially in large cities, and measures taken by the authorities to prevent such developments.

51. The Committee is concerned that there is no legislation prohibiting racist organizations and propaganda activities. It is also concerned about the increasing influence of xenophobic ideology on political parties, especially in Flanders. In this context, the Committee requests the State party to give more information on the application of the 1998 law on withdrawing financial support to political parties that incite racism or racial hostility, or disseminate racial propaganda. Taking into account the mandatory nature of article 4 of the Convention, the Committee also recommends that the State party enact legislation that declares illegal and prohibits any organization which promotes or incites to racism and racial discrimination and consider withdrawing its reservation to this article. In this context, the Committee draws the attention of the State party to its general recommendation XV.

52. The Committee expresses concern about reports according to which the legal provisions designed to prosecute and punish acts of racism and racial discrimination are not applied. It also expresses concern at the length of procedures for the investigation of complaints by victims of racial discrimination. The Committee recommends that the State party ensure that all acts of racism and racial discrimination are investigated and that the alleged perpetrators, if found guilty, be punished.

53. Concern was also expressed about several cases of racist incidents in police stations involving law enforcement officials, where the victims were immigrants and asylum-seekers. The Committee is also concerned about reports that children belonging to ethnic minority groups have experienced verbal violence. The Committee recommends that the State party take all necessary measures to prosecute racially motivated acts of violence by law enforcement officials and to prevent such verbal offences against members of minority groups, and continue its efforts to promote intercultural tolerance, understanding and respect.

54. With regard to the amendment to article 150 of the Constitution, the Committee requests the State party to provide detailed information in its next periodic report on the number of cases brought before the Belgian courts and the decisions taken with regard to acts of racism, racial discrimination or incitement to racial hostility, in which the media, especially the press, were involved.

55. The Committee is concerned about the difficulties of access to employment and housing of members of ethnic minorities. The Committee recommends that the State party take all necessary measures to facilitate the occupational integration, in both the public and private sectors, and the access to housing, of persons belonging to ethnic minorities. The Committee recommends that the State party provide in its next periodic report information on the situation in all regions of the State party, including on complaints of racial discrimination and on redress, if any, provided to the victims.

56. While noting the positive efforts undertaken by the State party in the field of education against racial discrimination, the Committee expresses concern about the absence or insufficiency of educational measures for some professional groups, such as judges, prosecutors, lawyers and civil servants. The Committee recommends that the State party give full effect to the provisions of article 7 of the Convention by adopting effective measures, particularly in the fields of education and training, in order to prevent racial discrimination.

57. While noting the satisfactory measures taken in the State party, especially by the Centre for Equal Opportunity and the Struggle against Racism, following the events of 11 September 2001 in the United States, in order to promote tolerance between religious communities, the Committee regrets occurrences of racial acts against persons belonging to ethnic minorities, especially those of the Muslim faith. The Committee recommends that the State party include in its next periodic report detailed information on the development of the situation and measures taken in this field.

58. The Committee recommends that the State party include in its next periodic report detailed information on the work of the Centre, the number of complaints received, as well as the outcome of cases brought before the courts.

59. Noting the responsibility of the Federal State for the implementation of the Convention, the Committee recommends that the State party provide in its next periodic report detailed information on the demographic composition of the population and socio-economic data disaggregated by gender and national and ethnic group for all its regions and communities.

60. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

61. The Committee reiterates its appeal to the State party to ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

62. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

63. The Committee recommends that the State party submit its fourteenth periodic report jointly with its fifteenth periodic report, due on 6 September 2004, that it be an updating report, and that it address the points raised in the present concluding observations.

COSTA RICA

64. The Committee considered the sixteenth periodic report of Costa Rica (CERD/C/384/Add.5), which was due on 4 January 2000, at its 1513th and 1514th meetings, held on 15 and 18 March 2002 (CERD/C/SR.1513 and 1514). At its 1521st meeting (CERD/C/SR.1521), held on 21 March 2002, it adopted the following concluding observations.

A. Introduction

65. The Committee welcomes the detailed report submitted by the State party, the contents of which correspond to the Committee's revised reporting guidelines (CERD/C/70/Rev.5), and the fact that the report was prepared in consultation with non-governmental organizations.

66. The Committee commends the State party for the regularity of its submission of its periodic reports under the Convention. The Committee expresses its appreciation for the self-critical tone of the report and for the frank and constructive dialogue held with the representatives of the State party. The Committee appreciates the substantial additional oral information provided by the delegation in response to the questions asked.

B. Positive aspects

67. The Committee notes that according to article 7 of the Constitution of Costa Rica, international human rights treaties take precedence over domestic legislation. It also welcomes the fact that such treaties, insofar as they recognize a broader range of rights or guarantees than in the Constitution, take precedence over constitutional provisions. It further welcomes the fact that international human rights treaties can be invoked directly before the courts.

68. The Committee notes the adoption in May 1999 of article 76 of the Constitution, according to which the State shall ensure that the national indigenous languages are safeguarded.

69. The Committee notes with satisfaction that during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the President of Costa Rica publicly apologized for past errors committed against Afro-Costa Ricans. It further welcomes the commemoration of the International Day for the Elimination of Racial Discrimination in schools, in accordance with paragraph 131 of the Durban Programme of Action.

70. The Committee welcomes the recent (January 2002) adoption of a resolution by the Office of the National Control of Propaganda prohibiting any radio broadcast or transmission, or any commercial product depicting bias against women, particularly black women.

71. The Committee welcomes the State party's ratification of the amendments to article 8, paragraph 6, of the Convention.

72. The Committee welcomes the recently issued standing invitation to visit the country transmitted by the Government of Costa Rica to all mechanisms of the Commission on Human Rights, including the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

C. Concerns and recommendations

73. The Committee is concerned that under Costa Rican legislation racial discrimination is considered merely a misdemeanour subject to a financial penalty. The State party is invited to consider whether such penalties are commensurate with the gravity of the acts committed.

74. The Committee is concerned at the situation of indigenous people, in particular:

(a) Information according to which indigenous people living in remote regions suffer, inter alia, from lack of health care, education, drinking water and electricity;

(b) Problems of ownership of land; that land has reportedly been appropriated by migrants and transnational enterprises;

(c) Difficulties faced by indigenous people in obtaining public funds for the improvement of their living standards;

(d) The fact that infant mortality among indigenous communities is reportedly three times higher than the national average.

The Committee invites the State party to continue to pay due attention to the specific needs of this population. It recommends that the State party undertake the necessary measures to protect indigenous lands from being invaded and to enable the restitution of those lands that have been occupied by non-indigenous persons.

75. The Committee takes note of the fact that the draft Act for the Autonomous Development of the Indigenous Peoples, aimed at granting full autonomy to indigenous peoples and recognizing their right to enjoy their own cultures, as well as the right to administer their territories, was withdrawn in the Legislative Assembly. The Committee notes that in June 2001, a draft act, similar in content to the draft Act for the Autonomous Development of the Indigenous Peoples, was presented in the Legislative Assembly. The Committee requests the State party to provide information about developments in this regard.

76. The Committee notes with concern the shortcomings of the State party in its activities on behalf of indigenous peoples, as reported by the Office of the Ombudsman, in particular the failure on the part of the authorities to maintain communication with the indigenous population and the absence of specific government plans for them. In this context, the Committee wishes to refer to its general recommendation XXIII, in which it calls upon States parties to ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent.

77. The Committee expresses concern at alleged manifestations in the media of racism, xenophobia and intolerance against minority groups. The State party should support the adoption of a code of ethics for the media.

78. The Committee is also concerned at the living and working conditions of immigrants, most of them from Nicaragua, who may become victims of discrimination in terms of article 5 of the Convention. The Committee recommends that the State party continue its efforts to ensure the rights of the immigrant population as regards discrimination on the grounds of race or ethnic or national origin. In this context, the Committee notes that a new immigration law is currently being considered by the Legislative Assembly. The Committee requests the State party to provide further information on developments in this regard in its next periodic report.

79. The Committee expresses concern at the alleged discriminatory application of legislation in force on refugee status determination procedure. According to information received, the requirements set by that legislation to determine refugee status are applied differently to different nationalities. The Committee recommends that the State party ensure equal treatment for all asylum-seekers in refugee status determination proceedings, and in particular Colombians.

80. While commending the efficiency and credibility of the Costa Rican judicial system, the Committee expresses concern at information concerning the lack of equal access to the courts, particularly by minority and ethnic groups. The Committee encourages the State party to continue to make efforts to ensure de facto equal access to the courts to all persons, including members of minority and ethnic groups.

81. The Committee is also concerned about the lack of representation of minorities at the judicial and governmental levels. The Committee recommends that the State party undertake affirmative action to ensure such minority representation.

82. While noting that there is no regulation of the Internet in national legislation, the Committee encourages the State party to adopt legislation in conformity with the Convention and to disseminate and promote the Convention by every means possible, including the Internet.

83. The Committee recommends that the State party continue to undertake educational campaigns to raise awareness of human rights, and in particular of issues concerning racism, xenophobia and intolerance, in order to prevent and combat all forms of discrimination.

84. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized. It encourages the State party to continue inserting the Committee's concluding observations on the appropriate web site.

85. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

86. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 4 January 2004, as an updating report, and that it address the points raised in the present observations.

CROATIA

87. The Committee considered the fourth and fifth periodic reports of Croatia (CERD/C/373/Add.1) at its 1499th and 1500th meetings, (CERN/C/SR.1499 and 1500) on 6 and 7 March 2002, and, at its 1517th meeting (CERD/C/SR.1517), on 19 March 2002, adopted the following concluding observations.

A. Introduction

88. The Committee welcomes the report submitted by the State party and expresses its appreciation for the dialogue with the high-level delegation and for the answers given orally to the wide range of questions asked by members. While appreciating the extensive supplementary information given to it during the examination of the report, the Committee regrets that the responses to its previous concluding observations (CERD/C/304/Add.55), dated, 10 February 1999 were not included in the body of the State party report.

89. The Committee regrets further that the report contains information mainly on the legal framework for the protection of rights of minorities and does not give sufficient information on the implementation of such legislation or on the extent to which minority communities enjoy the protection afforded by the Convention.

B. Factors and difficulties impeding the implementation of the Convention

90. The Committee notes that the State party is going through a challenging period of economic and social change in a period of post-war reconstruction, which has resulted in obstacles to the full implementation of the Convention.

C. Positive aspects

91. The Committee welcomes the efforts of the State party to introduce legislative reform in accordance with international standards, and to establish institutions, programmes and policies to promote equality. In particular, the Committee welcomes the adoption of the Associations Act, the establishment of the Office for Human Rights, the elaboration of a project of education aimed at achieving equality for minorities and promoting multiculturalism, the implementation of programmes of human rights education within the school environment, and the introduction of human rights training for police officers and judges.

92. The Committee notes with appreciation the State party's statement of cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) as well as with relevant United Nations bodies, including the Office of the High Commissioner for Human Rights (OHCHR), and regional organizations.

93. The Committee welcomes the State party's stated commitment to involve non-governmental organizations (NGOs) in the preparation of its next periodic report to the Committee, as well as its statement of intent to subscribe to article 14 of the Convention.

D. Concerns and recommendations

94. The Committee reiterates its concern about the lack of clarity as to the various definitions used in the report and in domestic legislation to describe ethnic and national minorities. The Committee is concerned that the recent withdrawal of the draft Constitutional Law on the Rights of National Minorities will create further delays in legislative protection for such minorities. The Committee recommends that the State party include in its next periodic report clarification as to the legal definitions used for describing the various minorities. It encourages the State party to finalize the Constitutional Law on the Rights of National Minorities in conformity with international standards and to include information regarding this matter in its next report.

95. It is noted that statistical data provided in the State party report are based on the 1991 census and that the results of the 2001 census are still pending. The Committee is concerned that the delay in the publication of the results may create distrust among communities and has presented some difficulties for the Committee in undertaking an effective analysis of issues affecting minorities. The Committee strongly encourages the State party to finalize and publish the general population census conducted in 2001 in order inter alia to implement provisions of the law affecting political representation as well as to ensure, as necessary, special protection and benefits for ethnic minorities. Moreover, it is recommended that the next periodic report include updated statistical data on the demographic composition of the Croatian population.

96. With respect to article 2 of the Convention, the Committee remains concerned about the limited representation of minorities in the Croatian Parliament. While it is noted that the Act on Election of Representatives to the Croatian State Parliament provides for proportional representation of minorities, the Committee is concerned that not all minority groups are included in this process while others are underrepresented. In particular, it is noted that Bosnians are not included in the list of minorities who may exercise the right to be represented in Parliament. It is recommended that the State party take further measures to ensure fair and adequate representation of all groups of minorities in the Croatian Parliament and to include in its next report information concerning the measures taken in this regard.

97. The Committee expresses concern at the continued practice of segregation of Roma children within the educational system and at the reports of discrimination against the Roma regarding access to employment, health, political representation and citizenship rights. The Committee recommends that the State party pay particular attention to the situation of the Roma and take effective measures to prevent the segregation of Roma children within the educational system. The Committee further recommends that the State party strengthen its efforts to address the high drop-out and poor performance rates of Roma children and guarantee non-discrimination, especially as regards respect for their cultural identity, language and values. The Committee also encourages the State party to reinforce its efforts to train and recruit Roma teachers and to prevent discrimination against the Roma in access to employment, health, political representation and citizenship rights.

98. The Committee reiterates its concern regarding the lack of legal provisions to implement the State party's obligations under article 4 (b) of the Convention, notably the absence of legislative measures prohibiting incitement to racial discrimination and violence. Concern is also expressed about the adequacy of efforts by the State party to investigate and prosecute persons responsible for fomenting ethnic hatred, especially in the localities affected by war. In this connection, the Committee notes that there have been no convictions by the courts for incitement to racial discrimination and violence, despite the significant number of such allegations. The Committee recommends that the State party comply fully with the obligations under article 4 of the Convention and that the necessary legislative measures be taken in order to give full effect to the provisions of that article and to declare illegal and prosecute incitement to ethnic hatred and racial violence.

99. While noting the challenges confronted by the State party in meeting the needs of large numbers of refugees, returnees and displaced persons, the Committee is concerned that return is still hindered by legal and administrative impediments and hostile attitudes adopted by some central and local officials. In this regard, concern is further expressed about allegations of inconsistency and lack of transparency in the National Programme for Return. The Committee is particularly concerned about the insufficient efforts of the State party to prevent discrimination against minorities, especially Croatian Serbs, in addressing issues of restitution of property, tenancy and occupancy rights, reconstruction assistance, as well as the inter-related issues of residency and citizenship rights. The Committee recommends that the State party introduce further measures to ensure fairness, consistency and transparency in the National Programme for Return. Further, the State party is strongly urged to take effective measures to prevent discrimination, especially against Croatian Serbs, particularly as regards the restitution of their property, tenancy and occupancy rights, access to reconstruction assistance and rights to residency and citizenship. It is recommended that the State party provide in its next periodic report information concerning the steps taken to introduce effective legal and administrative regimes to resolve these issues. The Committee draws the attention of the State party to its general recommendation XXII concerning the rights of refugees and displaced persons.

100. With respect to article 5 of the Convention, the Committee restates its concern regarding inconsistency between articles 8 and 16 of the Croatian Law on Citizenship, which appears to establish different criteria in granting citizenship to ethnic Croats as compared to other nationalities in Croatia. Concern is expressed that many former long-term residents of Croatia, particularly persons of Serb origin and other minorities, have been unable to regain residency status despite their pre-conflict attachment to Croatia. With respect to the acquisition of citizenship, the Committee again strongly urges that the State party undertake measures to ensure that all provisions of the Croatian Law on Citizenship are in conformity with article 5 of the Convention, and that the law is implemented in a non-discriminatory manner. The Committee also recommends that measures be taken to ensure that former long-term residents of Croatia are able to reclaim their status as citizens and/or residents on a non-discriminatory basis.

101. The Committee is concerned about repeated claims of discriminatory application of the right to equal treatment before the law, particularly in the area of property claims, where the courts reportedly continue to favour persons of Croat origin. The Committee also notes the large backlog of cases before the courts, which impedes access to justice. The Committee recommends that the State party reinforce its efforts to ensure non-discrimination in the

application of the right to equal treatment before the law, particularly in the area of repossession of property. The Committee further recommends that the State party include detailed information in its next periodic report concerning the measures taken to reduce the backlog of cases before the courts and improve access to justice.

102. While noting the efforts of the State party to introduce training for the police and judges, the Committee is concerned about the sufficiency of efforts to raise public awareness about the Convention, promote tolerance and discourage prejudice against certain minorities. The Committee recommends that the State party strengthen its efforts to familiarize the public with the Convention, in order to reduce the level of prejudice against certain minorities, and to promote tolerance. In this regard, the State party should reinforce its efforts to provide instruction on international human rights standards in all schools and organize training programmes for persons engaged in the administration of justice, including judges, lawyers and law enforcement officials.

103. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

104. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

105. The Committee recommends that the State party submit its sixth periodic report together with the seventh report, due on 8 October 2004, as an updating report responding to the points raised in the present observations.

DENMARK

106. The Committee considered the fifteenth periodic of Denmark (CERD/C/40/Add.1) at its 1507th and 1508th meetings (CERD/C/SR.1507 and 1508), on 12 and 13 March 2002, and at its 1522nd meeting (CERD/C/SR.1522) on 21 March 2002, adopted the following concluding observations.

A. Introduction

107. The Committee welcomes the report presented by the delegation of Denmark and notes that it contains relevant information about developments that have occurred since the consideration of the previous periodic report, including in Greenland. The Committee also notes with appreciation that the report includes responses to the concerns raised in the previous concluding observations (CERD/C/304/Add.93) issued in April 2000, concerning the fourteenth periodic report of Denmark. The State party's timely submission of its periodic reports under the Convention is noted with satisfaction. The Committee expresses appreciation for the frank dialogue with the delegation and for the comprehensive and thorough answers given orally to the wide range of questions asked by members.

B. Positive aspects

108. The Committee welcomes the recent recommendations by the Inter-Ministerial Committee to incorporate the International Convention on the Elimination of All Forms of Racial Discrimination into Danish law.

109. The Committee welcomes the positive steps taken to implement the Act on Integration of Aliens (1998) including the survey, carried out two years later by the Committee of Ministers on Integration, to evaluate the implementation of the Act.

110. The Committee appreciates the efforts made by Denmark to facilitate the implementation of article 2 of the Convention through the application of legal instruments, including section 266b of the Danish Criminal Code, and other measures to prohibit the dissemination of racist statements and propaganda and to prosecute offenders.

111. The Committee welcomes the improvement of employment opportunities for minorities and refugees in the public sector, the creation of integration councils to ensure ongoing integration efforts, and the relative success in procuring housing for refugees, in line with article 5 of the Convention.

112. The Committee also welcomes the State party's favourable attitude towards the application of article 14 of the Convention and particularly appreciates the information on follow-up action included in the report.

113. With respect to Greenland, the Committee welcomes the establishment of the Commission on Self-Government, inter alia, to submit proposals for amending the Home Rule Act. The transaction of the International Convention on the Elimination of All Forms of Racial Discrimination into the Greenlandic language is also welcomed.

C. Concerns and recommendations

114. The Committee notes that the Act on Integration of Aliens (1998) transfers the responsibility for aliens' integration from the central to the local authorities. While the Committee welcomes the efforts by the central Government to monitor the local authorities carefully, it recommends that the State party pay particular attention to ensuring that the geographical distribution of aliens with the State party is organized on the principle of equity and does not lead to violation of their rights recognized under the Convention.

115. The Committee is aware of reports of an increase in hate speech in Denmark. While it acknowledges the need for balance between freedom of expression and measures to eradicate racist abuse and stereotyping, the Committee recommends that the State party carefully monitor such speech for possible violations of articles 2 and 4 of the Convention. In this regard, the Committee invites the State party to take particular note of paragraphs 85 and 115 of the Durban Declaration and Programme of Action, respectively, which highlight the key role of politicians and political parties in combating racism, racial discrimination, xenophobia and related

intolerance. Political parties are encouraged to take steps to promote solidarity, tolerance, respect and equality by developing voluntary codes of conduct so that their members refrain from public statements and actions that encourage or incite racial discrimination.

116. The Committee takes note of the information on the temporary suspension of the licence of Radio OASEN owned by a neo-Nazi association and recommends that the Danish Government take decisive steps to prohibit such organizations in accordance with article 4 (b) of the Convention.

117. The Committee is concerned that policies and practices such as the housing dispersal policy, the quota system for the admission of minority children to certain crèches and nurseries, and the reported prohibition of the use of the mother tongue in some of these establishments may, though aimed at facilitating integration, lead to indirect discrimination against minorities and refugees. The Committee requests more information on this situation in its next periodic report.

118. The Committee commends the State party for having invested in its human rights institutions and in a number of non-governmental organizations, which have promoted human rights and served the needs of minority groups, but is concerned by plans to reduce the level of funds and the potential impact this would have on the NGOs concerned. In light of the recommendations of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to strengthen human rights national institutions and NGOs, the Committee urges the State party to ensure that the organizational restructuring of the Board of Ethnic Equality and the Centre for Human Rights will strengthen the overall work on human rights and in particular the protection of the rights of ethnic minorities. It is concerned about the withdrawal of funds from certain NGOs. The Committee recommends that the State party include information on this mater in its next periodic report.

119. While acknowledging the information provided in the report regarding article 5 of the Convention, the Committee reiterates that equal attention should be paid to economic, social and cultural rights, particularly with respect to minorities. The Committee is concerned about the impact of the recent (May 2000) amendments to the Aliens Act, particularly as they abolish the statutory right to reunification of spouses under the age of 25 years. The Committee encourages the State party to take effective measures to ensure that the right to family life is guaranteed to all persons in Denmark without distinction. It recommends that the State party report on this issue in its next periodic report.

120. The Committee commends the State party for having instituted programmes, such as the language training programme for unemployed persons with insufficient knowledge of the Danish language; the strengthening of the Public Employment Services placement activities in relation to refugees and immigrants; and the "ice-breaker" programme. However, despite overall improvements, it is concerned about the disproportionately high level of unemployment among foreigners, particularly groups of immigrants of non-European and non-North American descent. The State party is reminded that although it is not obliged to provide work permits to foreign residents, it should guarantee that foreigners who are entitled to a work permit are not discriminated against in their access to employment.

121. The Committee is concerned about reports of a considerable increase in reported cases of widespread harassment of people of Arab and Muslim backgrounds since 11 September 2001. The Committee recommends that the State party monitor this situation carefully, take decisive action to protect the rights of victims and deal with perpetrators, and report on this matter in its next periodic report.

122. The Committee is concerned about the introduction of new, more stringent asylum and refugee regulations, and encourages the State party to maintain its standards and ensure that all cases of asylum-seekers are decided on merit and without discrimination.

123. The Committee reiterates its previous concern regarding the delay in resolving the claims of the Inughuit with respect to the Thule Air Base. The Committee notes with serious concern claims of denials by Denmark of the identity and continued existence of the Inughuit as a separate ethnic or tribal entity, and recalls its general recommendation XXIII on indigenous peoples general recommendation VIII on the application of article 1 (self-identification) and general recommendation XXIV concerning article 1 (international standard). The Committee recommends that the State party include information in its next periodic report concerning these issues.

124. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

125. The Committee recommends that the reports of the State party be made available to the public from the time they are submitted and that the concluding observations of the Committee on these reports be similarly publicized.

126. The Committee recommends that the State party submit its sixteenth periodic report jointly with its seventeenth periodic report, due on 8 January 2005, that it be an updating report, and that it address all points raised in the present observations.

JAMAICA

127. The Committee considered the eighth to fifteenth periodic reports of Jamaica, submitted as one document (CERD/C/383/Add.1), at its 1511th and 1512th meetings (CERD/C/SR.1511 and CERD/C/SR.1512), held on 14 and 15 March 2002. At its 1521st meeting (CERD/C/SR.1521), held on 21 March 2002, it adopted the following concluding observations.

A. Introduction

128. The Committee welcomes the submission of the eighth to fifteenth periodic reports of Jamaica as well as the additional information provided by the delegation during its oral presentation. While regretting the limited information provided in the report, including with

respect to follow-up to previous concluding observations, the Committee expressed appreciation for the opportunity to renew its dialogue with the State party after a lapse of more than eight years.

B. Positive aspects

129. The Committee welcomes the enactment of the Public Defenders (Interim) Act (1999), which created the office of the Public Defender to protect and enforce human rights and provide a remedy for the infringement of those rights.

C. Concerns and recommendations

130. The Committee notes that the State party has undertaken a constitutional review process intended, inter alia, to provide for the enactment of a Ratification of Treaties Act to ensure the incorporation of international treaty obligations into domestic legislation. Noting that this activity has been under way for some time, the Committee encourages the State party to take further measures to finalize the review process and to submit relevant information concerning this matter in its next periodic report. The Committee also wishes to receive more specific information concerning the implementation of the "fundamental rights and freedoms" provided in section 24 of the Constitution, especially those aimed at addressing discrimination based on race, colour or ethnic origin.

131. The Committee reminds the State party that it has difficulties in accepting the mere assertion made by States parties as to the absence of racial discrimination in their territory. The Committee also reminds the State party that the absence of complaints by victims of racial discrimination could indicate a lack of awareness of available legal remedies. It encourages the State party to reconsider its position concerning racial discrimination in its territory and to implement effective measures to address direct and indirect discrimination. Moreover, the Committee recommends that the State party take appropriate measures to inform the public of the availability of legal remedies for victims of racial discrimination. It further requests the State party to include in its next periodic report statistical information on possible prosecutions in cases related to racial discrimination.

132. The Committee is concerned about the absence in the State party of specific legislative, administrative and other measures which aim to give effect to article 4 of the Convention, especially article 4 (b), prohibiting racist organizations. The Committee underlines the obligations of the State party under the Convention and reiterates its view as to the preventive role of such measures. In this connection, the Committee also draws the attention of the State party to its general recommendation VII and general recommendation XV, affirming the compatibility of the prohibition of the dissemination of ideas based upon racial superiority or hatred with the right to freedom of opinion and expression. The Committee urges the State party to give due consideration to adopting the necessary legislation to comply with article 4, particularly article 4 (b), of the Convention as a matter of priority.

133. The Committee again suggests that the State party consider withdrawing its reservation to article 4 of the Convention.

134. It is regretted that the State party report did not include sufficiently adequate information on article 5 of the Convention to enable the Committee to examine effectively the situation of civil and political rights as well as economic, social and cultural rights as they relate to the various ethnic groups in Jamaica. The Committee recommends that the State party include in its forthcoming report information concerning the measures taken to implement article 5 of the Convention.

135. The Committee expresses concern about the limited information, including relevant demographic statistical data, provided in the State party report. While noting the State party's statement that it does not compile data based on race and ethnicity, the Committee recalls the importance of data, which enable it to assess the situation of minorities in a given State. In this regard, it urges the State party to reconsider its position and to provide information in its next periodic report on the following issues: (a) the ethnic composition of the population, and in particular statistical data relating to the numerically small ethnic groups; (b) disaggregated data on the employment of different racial groups in government service in different sectors.

136. The Committee notes the absence of any reference in the report to the contribution of civil society organizations in the promotion of ethnic harmony, and expresses its hope that the next periodic report will reflect the contribution of such organizations, particularly those dealing with issues related to combating racial discrimination, including raising awareness about the Convention.

137. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

138. The Committee recommends that the State party consider the possibility of making the optional declaration provided for in article 14 of the Convention.

139. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

140. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

141. The Committee recommends that the State party submit its sixteenth periodic report together with the seventeenth report, due on 4 July 2004, as an updating report responding to all the points raised in these concluding observations.

LIECHTENSTEIN

142. The Committee considered the initial report of Liechtenstein (CERD/C/394/Add.1) at its 1515th and 1516th meetings (CERD/C/SR.1515 and 1516), on 18 and 19 March 2002, and at its 1520th meeting (CERD/C/SR.1520), on 22 March 2002, adopted the following concluding observations.

A. Introduction

143. The Committee welcomes the initial report presented by the Government of Liechtenstein, which is in general conformity with the requirements of the Convention. The Committee expresses its appreciation for the open and frank dialogue with the delegation of the State party, as well as for the detailed answers to questions raised and concerns expressed during the consideration of the report.

B. Positive aspects

144. The Committee welcomes the submission by the State party of its initial report within the established timetable, namely the period of one year after entry into force of the Convention for Liechtenstein.

145. The Committee also expresses appreciation for the fact that the State party amended relevant national legislation to be in line with the Convention before proceeding with its ratification.

146. The Committee notes with interest that an amendment to the law on the Supreme Court will be introduced in the near future, aimed at extending the Supreme Court's competence to hear cases of alleged violations of the rights guaranteed in the Convention. In this connection, the Committee further notes with satisfaction the State party's intention to make the declaration under article 14.

147. The Committee expresses satisfaction with measures undertaken by the State party to address the phenomenon of right-wing extremism, which was reported to be on the increase in Liechtenstein. Those measures include the establishment of an expert group within the police force and the creation of an inter-agency coordinating group (KOR) for this phenomenon.

148. The Committee notes the efforts undertaken by the State party to ensure the integration of refugees and asylum-seekers in society, inter alia through access to the labour market, as well as through the admission of children of refugees and asylum-seekers to public schools, complemented by intensive German language courses.

149. The Committee notes with appreciation that civil servants in Liechtenstein are not necessarily required to have Liechtenstein citizenship.

C. Concerns and recommendations

150. The Committee notes that, while a police treaty between the State party and its neighbouring countries (Austria and Switzerland) provides for police cooperation concerning right-wing groups which may promote racial discrimination and xenophobia and their activities, there does not seem to be particular training of law enforcement officers in this field. The Committee recommends that the State party attempt to develop such training courses for law enforcement officers, as this would increase the State party's capacity to combat all forms of racial discrimination effectively.

151. The Committee notes that the State party is supporting efforts made by non-governmental organizations to help foreigners to integrate into society. The Committee recommends that the State party continue to lend its support to such organizations in this work which includes providing German language courses, counselling services and information. The Committee recommends that such activities be expanded, with a view to raising multicultural awareness and enhancing mutual understanding. To that end, the State party might consider ensuring adequate financial support on a continuing basis.

152. The Committee further notes that the State party provides facilities to foreign associations organizing mother-tongue language courses and courses on the culture of countries of origin, but that it does not provide financial support for teachers or educational material. The Committee therefore recommends that the State party consider providing funding for associations that organize such courses

153. The Committee regrets the absence of statistical data on the number of children of refugees and asylum-seekers attending public school and intensive German language courses. The Committee requests that the State party provide statistical data in that respect in its next periodic report.

154. With regard to the right to adequate housing, the Committee is concerned that discrimination on racial grounds in the allocation of housing is said to occur, albeit infrequently. The Committee invites the State party to provide in its next report information on occurrences of discrimination in the housing sector.

155. The Committee requests the State party to provide in its next periodic report information on access to social security and health care by non-nationals.

156. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

157. The Committee invites the State party to undertake specific efforts to disseminate the Convention in German so that the population can become more aware of issues of racial discrimination, racism and xenophobia.

158. The Committee requests the State party to disseminate its report and the Committee's concluding observations widely among all levels of society, and in particular State officials and the judiciary, and to inform the Committee on steps taken to implement them in its next periodic report. It also encourages the State party to continue to involve non-governmental organizations and other members of civil society in the preparation of the next periodic report.

159. The Committee recommends that the State party's next periodic report, due on 22 March 2003, be an updating report and that it address, inter alia, the points raised in the present observations.

LITHUANIA

160. The Committee considered the initial report of Lithuania (CERD/C/369/Add.2) at its 1497th and 1498th meetings (CERD/C/SR.1497 and 1498), on 5 and 6 March 2002, and at its 1520th meeting (CERD/C/SR.1520), on 21 March 2002, adopted the following concluding observations.

A. Introduction

161. The Committee welcomes the initial report submitted by the State party and the additional oral information provided, as well as the opportunity thus offered to initiate a dialogue with the State party.

162. The Committee notes with satisfaction that the State party's report generally conforms to the reporting guidelines of the Committee. The Committee wishes to underline that the report of the State party presents, as expected from initial reports, the legal framework set out to implement the Convention, but contains insufficient information on the practical implementation of the Convention.

B. Positive aspects

163. The Committee notes with satisfaction that since the independence of Lithuania, considerable progress has been achieved in the field of human rights; in particular, the "zero option" in the 1989 Law on Citizenship, which enabled the majority of the population to obtain Lithuanian citizenship, has led to the construction of a more stable society.

164. The Committee welcomes the efforts made by the State party to respect, protect and promote the realization of the cultural rights of persons belonging to national minorities. In particular, the Committee welcomes the State party's willingness to protect the expression of a diversity of identities, while at the same time enhancing the integration of all within society and the realization of the right of each person to participate and contribute to cultural and social life.

165. The Committee also notes with satisfaction that the State party has ratified a large number of international and regional instruments in the field of human rights. The Committee particularly welcomes the announcement made by the delegation concerning the intention of the State party to consider making the declaration under article 14 of the Convention.

166. The Committee notes with satisfaction that a new criminal code, which includes a number of new articles establishing responsibility for crimes of racial discrimination, is shortly to enter into force.

167. The Committee welcomes the initiative taken by the Parliament (Seimas) to amend article 119 of the Constitution of Lithuania and to grant to foreign permanent residents the right to elect and to be elected to local self-government bodies (municipal councils).

168. The Committee notes with satisfaction the effort made by the State party in the field of human rights education for State officials, and welcomes the intention of the State party to disseminate the present concluding observations on the web site of the Ministry for Foreign Affairs.

C. Concerns and recommendations

169. The Committee notes that the explanations of the authorities relating to the status of the Convention at the national level were unclear. Although the delegation stated that national courts could apply directly some of the provisions of the Convention, it also stressed that the adoption of national legislation was necessary. The Committee calls for the rapid incorporation of all the provisions of the Convention into the national legal system, as necessary.

170. The Committee notes that the new Law on Citizenship is more restrictive and requires the applicants to pass tests on the Lithuanian language and the provisions of the Constitution, which may exclude from citizenship persons belonging to certain minorities. In this regard, the Committee requests the State party to include detailed information on the functioning of the new system in its next periodic report.

171. Concern was expressed about the denial of citizenship under article 13 of the Law on Citizenship to persons affected by HIV/AIDS, who may belong to groups vulnerable to racism and racial discrimination.

172. The Committee wishes to receive more detailed information concerning the right to education and the linguistic rights of persons belonging to national minorities, as well as on respect for the principle of equal treatment for all national minorities. The Committee wishes to be informed whether programmes of education on minority cultures are elaborated with the participation of the minorities. The Committee also recommends that the next periodic report of the State party contain more information relating to the participation of national minorities in political and economic life.

173. The Committee notes with concern that, despite the adoption of a programme for the integration of the Roma into Lithuanian society for 2000-2004, the Roma experience difficulties in enjoying their fundamental rights in the fields of housing, health, employment and education, and are the subject of prejudicial attitudes. In this regard, the Committee wishes to draw the attention of the State party to general recommendation XXVII on discrimination against Roma. The Committee recommends that the State party in its next periodic report, include detailed information on the measures aimed at protecting Roma as well as on the results of their implementation.

174. The Committee underlines that the periodic report of the State party remains unclear on the fundamental rights of non-citizens temporarily or permanently settled within Lithuania, including stateless persons, and requests further information in this regard.

175. The Committee expresses concern in relation to information regarding the discriminatory treatment of Afghan asylum-seekers and the disregard of basic procedural guarantees. Having taken into account the assurances given by the delegation concerning legislative provisions in this regard, the Committee nevertheless recommends that the State party ensure equal treatment for all asylum-seekers, including Afghan nationals, in refugee determination proceedings. The Committee recommends that educational rights and assistance in administrative matters be granted to children of asylum-seekers, including those of Afghan nationality.

176. The Committee is further concerned about xenophobic tendencies towards Chechen asylum-seekers and refugees and requests the State party to take preventive and educational measures in this regard. The Committee recommends that the State party ensure the enjoyment of social rights, particularly to adequate housing and health, to all asylum-seekers and refugees in need without regard to their legal status.

177. The Committee is concerned about information relating to expressions of racial hatred by politicians and the media. In this regard, the Committee stresses that the new criminal code should satisfy the requirements of article 4 of the Convention, especially paragraphs (a) and (b).

178. The Committee notes that the Parliamentary ombudsmen have received no complaints alleging discrimination by civil servants against persons on the ground of national origin, and that no criminal cases based on racial discrimination have been brought to court since 1995. The Committee recommends that awareness on these issues be raised among the police and the judiciary. The Committee requests the State party to include in its next periodic report detailed statistics relating to acts of racial discrimination, as well as information on the cases when action by the public prosecutor is compulsory. The Committee underlines that assistance to the victims in this regard should extend beyond financial assistance.

179. The Committee suggests that the State party ratify the amendments to article 8, paragraph 6, of the Convention, which were adopted on 15 January 1992 at the Fourteenth Meeting of States Parties.

180. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

181. The Committee recommends that the Convention, as well as the concluding observations adopted by the Committee, be publicized to a greater extent.

182. The Committee recommends that the State party submit its second periodic report jointly with its third periodic report, due on 9 January 2004, and that it address all points raised in the present observations.

QATAR

183. The Committee considered the ninth, tenth, eleventh and twelfth periodic reports of Qatar, submitted as one document (CERD/C/360/Add.1), at its 1503rd and 1504th meetings (CERD/C/SR.1503 and 1504), held on 8 and 11 March 2002, and adopted the following concluding observations at its 1518th meeting (CERD/C/SR.1518), held on 20 March 2002.

A. Introduction

184. The Committee welcomes the report submitted by the State party and the additional information provided by the delegation of Qatar in its oral presentation. It is pleased to have resumed a dialogue with the State party, which was interrupted after 1993 when the Committee examined the eighth periodic report of Qatar.

185. The Committee wishes to emphasize, however, that the report submitted is not entirely consistent with its guidelines. It notes that the State party has not submitted general information in the first part of the report, or in a core document. Equally, the report contains insufficient information on how the Convention is applied in practice.

B. Positive aspects

186. The Committee welcomes the political reforms on which the State party has embarked, and notes in particular the review of legislation on civil liberties, the lifting of censorship on the printed media, the first elections to the Central Municipal Council, conducted with universal and equal suffrage in 1999, and the announcement of the forthcoming establishment of an elected parliament.

187. The Committee also notes with satisfaction that the State party has established a committee to draft a permanent constitution. It notes in particular the information from the delegation of Qatar that all sectors of society are represented in that committee.

188. The Committee welcomes the State party's declared intention to ratify in the near future the Convention on the Elimination of All Forms of Discrimination against Women, and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

189. The Committee welcomes the assurance by the delegation of Qatar that it will forward to the competent governmental authorities the Committee's suggestion that the State party ratify the amendments to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the Fourteenth Meeting of States Parties, and should make the declaration provided for in article 14 of the Convention.

C. Concerns and recommendations

190. The Committee again expresses its concern over the repeated affirmations by the State party that it has no need to take action to implement articles 2, 3 and 4 of the Convention

because there is no racial discrimination in Qatar. It wishes to point out that States parties are required under the Convention to take legislative, judicial, administrative and other measures to give effect to its provisions, even in the apparent absence of racism.

191. While noting that the Provisional Constitution, as well as provisions of the Islamic Shariah, the principal source of Qatar legislation, prohibit acts of racial discrimination, the Committee is of the opinion that the mere statement of the general principle of non-discrimination in the Constitution is not a sufficient response to the requirements of the Convention. The Committee recommends that the State party adopt legislation that meets the requirements of articles 2, 3 and 4 of the Convention. In this connection, the Committee draws attention to its general recommendations I, II, VII and XV, and emphasizes the preventive value of legislation expressly prohibiting racial discrimination and racist propaganda. It hopes that the next periodic report of the State party will describe the progress made in this respect.

192. As regards the right to equal treatment before the courts, the Committee takes note of the details provided by the delegation on the judicial reforms under way with a view to the establishment of a single jurisdiction for the enforcement of new legislation in areas including civil, commercial and penal law. It would like to know whether, given the current state of legislation, non-citizens and non-Muslims who suffer discrimination and who are entitled to bring proceedings before a civil court can also bring their cases before the Islamic Shariah courts. The Committee also wishes to know to what extent the Convention can be invoked before the civil and Shariah courts, and what rules of the Shariah answer to the requirements of the Convention. It wishes to receive more information about the relationship between the Provisional Constitution of 1972, in particular article 9 guaranteeing equality before the law, and the principles of Shariah as a source of law.

193. The Committee notes the information provided by the delegation on the conditions governing the acquisition of the nationality of Qatar. It is nonetheless concerned at the distinction made in article 3 of Act No. 3/1963, as amended by Act No. 3/1969, between nationals of Arab countries and others as regards the length of time they must reside in Qatar before they can submit an application for naturalization. The Committee requests the State party to consider the possibility of modifying this provision in order to conform to article 5 (d) (iii) of the Convention. It wishes also to receive more information regarding modalities for the acquisition of nationality for children of mixed marriages.

194. The Committee notes with concern the distinction drawn between citizens by birth and naturalized citizens as regards access to public office and other kinds of employment, as well as the right to vote and to stand for election. The Committee believes that the supplementary conditions attached to the exercise of these rights by naturalized citizens are not consistent with article 5 (c) and (e) (i) of the Convention. It recommends that the State party bring its legislation into line with article 5 of the Convention. It also requests that the next periodic report of the State party provide information on the number of naturalized persons in Qatar and their nationalities before naturalization.

195. Concern was expressed that marriage between nationals of Qatar and foreigners is subject to prior approval by the Minister of the Interior. The Committee requests the State party to explain in its next periodic report the reason for such a restriction on the right to marry and choose one's spouse, and would like to have further information on the scope of this restriction.

196. The Committee also notes with concern that the State party does not appear to guarantee freedom of marriage between nationals and non-nationals unless the latter are nationals of States members of the Gulf Cooperation Council. Such a distinction, based upon national origin, does not, in the Committee's view, appear to be consistent with article 5 (d) (iv) of the Convention.

197. The Committee notes that the State party's legislation does not, in principle, allow members of different religions to inherit from each other; it has learned from the delegation's explanations, however, that a Muslim can draw up a will in favour of a non-Muslim. The Committee emphasizes that such a situation should not result in certain categories of people being excluded from the right to inherit, given the requirements of article 5 (d) (iv) of the Convention. The Committee asks the State party to include fuller information on this subject in its next report.

198. Members of the Committee noted that foreigners leaving the territory of the State party must present a guarantee or a certificate. The Committee wishes to know whether this requirement extends to all foreigners.

199. The Committee notes that, as a general rule, foreigners are not permitted to own real estate in Qatar, except within certain limits. The Committee would like to receive more information about these limits.

200. On the subject of education, the Committee notes with satisfaction the existence of numerous schools run by foreign nationals, which follow varying curricula. In this regard, the Committee requests that the next report provide more information on the extent and nature of the Minister of Education's supervision of the curricula in these schools and how the integration of these schools into the national school system is sought.

201. The Committee recommends that the State party institute training programmes on human rights and understanding among ethnic groups for law enforcement officials, including policemen, military and prison staff, and members of the judiciary.

202. While noting with satisfaction that minorities are entitled to practise their religious rites, the Committee wishes to receive further information regarding limitations on this right, based on respect for public order or Islamic precepts.

203. The Committee has taken careful note of the assurances by the State party delegation that the law guarantees all workers equal status. It wishes, however, to obtain further information on the practical implementation of this principle, particularly given the high proportion of migrant workers in Qatar. The Committee requests the State party to include in its next periodic report statistics disaggregated by migrants' national origin, which would provide a better understanding of the economic and social standing of non-nationals of Qatar in relation to their national and ethnic origins.

204. The Committee requests the State party to include in its next periodic report information on progress made in establishing a national human rights institution, and further details of the intended membership, mandate and status of that institution. In this connection, it draws the attention of the State party to the Paris Principles annexed to General Assembly resolution 48/134.

205. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

206. The Committee recommends that the text of the Convention and its own concluding observations be disseminated as widely as possible. It notes with satisfaction the delegation's statement that the Al-Jezira television network of Qatar could play an important role in publicizing the Convention and the work of the Committee within the Arab world.

207. The State party is invited to include in its next periodic report specific information on the composition of the population, including its ethnic and demographic characteristics.

208. The Committee recommends that the State party submit its thirteenth periodic report together with the fourteenth report, due on 21 August 2003, as an updated report responding to all the points raised in these concluding observations.

REPUBLIC OF MOLDOVA

209. The Committee considered the initial, second, third and fourth periodic reports of the Republic of Moldova (CERD/C/372/Add.2), which were due on 1 March 1994, 1996, 1998 and 2000 respectively, at its 1505th and 1506th meetings (CERD/C/SR.1505 and 1506), held on 11 and 12 March 2002. At its 1517th meeting (CERD/C/SR.1517), held on 19 March 2002, it adopted the following concluding observations.

A. Introduction

210. The Committee welcomes the detailed report presented by the delegation of the Republic of Moldova, which contains relevant information on the implementation of the provisions of the Convention in the State party. The Committee welcomes the opportunity to initiate an open and constructive dialogue with the State party. While noting that the report was not adequately structured in terms of the guidelines for the preparation of reports, the Committee appreciates the additional information provided by the State party delegation during its oral presentation.

B. Factors and difficulties impeding the implementation of the Convention

211. The Committee notes that the State party is going through a difficult period of transition and is facing serious economic and social challenges. Further, the State cannot exercise its

jurisdiction on part of its territory, the region of Transnistria, because of the ethnic conflict. The Committee is concerned about the impact of the conflict on the implementation of the Convention.

C. Positive aspects

212. The Committee welcomes the ratification by the State party of numerous international human rights instruments which are relevant to issues relating to the elimination of racial discrimination.

213. The Committee notes with satisfaction the efforts undertaken by the State party to ensure the promotion and protection of human rights through the adoption of the 1994 Constitution, which guarantees a wide spectrum of human rights, the 1990 Citizenship Law, the entry into force of the 1997 Law on Public Associations, the 1995 Law on the Press, the Laws on Public Education and Audio-Visual Broadcasting, the 1994 Law on Libraries and the proposed amendments in line with various treaty obligations.

214. The Committee welcomes the decrees which the State party has adopted with the purpose of ensuring the functioning and development of languages of ethnic minorities and the development of the national culture of minorities, including Ukrainian, Russian, Jewish and Bulgarian groups. The Committee commends that the State party continue its efforts aimed at facilitating access to education in their mother tongue for members of minorities.

215. The Committee notes the establishment of specialized institutions, demonstrating the commitment of the State party to combating racial discrimination, such as the Parliamentary Committee on Human Rights, Religious Groups, Ethnic Minorities and External Communities, the Department for National Relations and Languages, the State Service on Religious Issues, the Presidential Commission on Interethnic Relations and the Prosecutor for Minorities.

216. The Committee notes with satisfaction the efforts undertaken by the State party to implement human rights education programmes, including those intended for law enforcement officials. The Committee further notes the efforts undertaken by the State party to disseminate information on human rights and, in particular, the rights of minorities in its territory.

217. The Committee notes that the socio-economic development plans of the State party are aimed at the improvement of inter-ethnic relations.

D. Concerns and recommendations

218. The Committee notes the absence in the report of disaggregated data on the population that would provide detailed information on the ethnic composition in Moldova. The Committee recommends that the State party provide relevant data in its next periodic report, in order to facilitate understanding of the ethnic characteristics of the population.

219. The Committee notes the absence of examples of implementation of the provisions of the Convention in practice. The Committee recommends that the State party include in its next periodic report information on the implementation in practice and on the monitoring of

articles 4 and 6 of the Convention, as well as data on incidents of racial discrimination in the State party. Information should also be provided on effective penalties and sanctions imposed in cases of conviction for racial discrimination or racism.

220. With regard to the constitutional and legal provisions aimed at the protection of the rights of persons belonging to ethnic minority groups, the Committee recommends that the State party take measures to guarantee more fully for ethnic minority groups, economic, social and cultural rights, as defined in article 5 (e) of the Convention, including the rights to work and to adequate housing, and that it include more detailed information in its next periodic report on the implementation of the provisions of article 5 (e).

221. Landlessness has been reported among persons belonging to some minorities previously working in collective farms, as a consequence of privatization of land held by collective farms of the Soviet era. Information on remedial measures taken by the State party to address the economic condition of the landless ethnic minorities should be given in the next periodic report.

222. With regard to article 7 of the Convention, the Committee recommends that the State party continue and extend its educational and cultural programmes in order to raise public awareness of issues of racism and racial discrimination. The Committee invites the State party to provide in its next report detailed information on the educational system, on the role of institutions or associations working to develop national culture and traditions, and on the role of the State and mass media in combating racial prejudices. The Committee also recommends that the State party ensure that minorities and ethnic groups in its territory receive information and education in their respective languages.

223. The Committee notes reports according to which, after the tragic events of 11 September 2001 in the United States, a parliamentary inquiry was conducted into the alleged existence of terrorists among students of Arab origin at the International Independent University of Moldova. The State party should ensure that actions taken should follow due process of law and that they avoid any suspicion of racial profiling.

224. The Law on Advertisements states that an advertisement is regarded as immoral if, inter alia, it makes defamatory comparisons and images with respect to race, nationality, social origin or language. The State party should provide detailed information in its next periodic report on the sanctions provided in such cases and whether there have been convictions for publishing immoral advertisements.

225. The Committee is concerned at reports of police violence against persons belonging to minority groups, in particular the Roma population. The Committee recommends that the State party take all necessary measures to prevent and punish excessive use of force by law enforcement officials against minorities. Steps should also be taken for the education and sensitization of law enforcement officials about the provisions of the Convention. Due account should be taken of general recommendation XIII, according to which law enforcement officials should receive training to ensure that, in the performance of their duties, they respect and protect the human rights of all persons without distinction as to race, colour, or national or ethnic origin.

226. The Committee expresses its concern about reports that minorities experience discrimination in the areas of employment, housing, education and health care. It is also concerned at reports that the Roma population is sometimes denied access to, and service in, places intended for the general public. The Committee recommends that the State party undertake effective measures to eradicate practices of discrimination against minorities and, in particular, the Roma population. It also recommends that the State party include in its next periodic report information on the impact of the measures taken to improve the situation of the Roma population, in the light of general recommendation XXVII.

227. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention and invites the State party to consider the possibility of doing so.

228. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

229. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

230. The Committee recommends that the reports of the State party be made available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

231. The Committee recommends that the State party submit its fifth periodic report jointly with its sixth periodic report, due on 25 February 2004, that it be an updating report and that it address all points raised in the present observations.

SOLOMON ISLANDS

232. At its 1502nd meeting, held on 8 March 2002 (CERD/C/SR.1502), the Committee reviewed the implementation of the Convention by the Solomon Islands based upon the concluding observations on the initial report in 1983 (see CERD/C/101/Add.1 and A/38/18, paras. 421-430) and previous reviews of the implementation of the Convention in 1992 and 1996 (see A/47/18, paras. 246-253 and A/51/18, paras. 446-448). The Committee also took into consideration a variety of materials from both intergovernmental and non-governmental sources. The Committee regrets that Solomon Islands has not responded to its invitations to participate in the meeting and to furnish relevant information.

233. While it is noted with appreciation that Solomon Islands has recently submitted initial reports to the Committee on Economic, Social and Cultural Rights and to the Committee on the Rights of the Child, it is regretted that a report has not been submitted to the Committee on the Elimination of Racial Discrimination since the State party's initial report in 1983. It is recalled that the purpose of the reporting system is for States parties to establish and maintain a dialogue with the Committee on the measures adopted, progress made and difficulties encountered in

complying with the rights recognized in the Convention. The non-performance by a State of its reporting obligations creates serious obstacles to the effective functioning of the monitoring system set up by the Convention.

234. The Committee recognizes the challenging economic and social conditions faced by Solomon Islands and is aware of the political and ethnic conflicts which have exacerbated the situation there. It is also aware of the violent conflict between the Isatabu Freedom Movement (IFM) and the Malaita Eagle Force (MEF), which has led to gross violations of human rights in Solomon Islands. Internal displacement, hostage taking, killings, torture, rape, looting and the burning of village homes have been reported by a number of intergovernmental and non-governmental organizations. The Committee is concerned that, despite several attempts at securing peace, favourable results have been limited, as tension between the two groups remains high. The Committee is hopeful that the successful elections held in December 2001 and the new ruling party's stated promise to rehabilitate the country politically and economically and to ensure better security will lead to sustainable peace and security in Solomon Islands.

235. In line with its previous recommendations, the Committee strongly urges the Government of Solomon Islands to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting as soon as possible a report drafted in accordance with the reporting guidelines.

236. The Committee draws the attention of the State party to the provisions of the Declaration and Programme of Action of the World Conference against Racism, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and States are urged to cooperate with the Committee in order to promote the effective implementation of the Convention.

SAINT VINCENT AND THE GRENADINES

237. At its 1511th meeting, held on 14 March 2002 (see CERD/C/SR.1511), the Committee reviewed the implementation of the Convention by Saint Vincent and the Grenadines based upon the State party's initial report (CERD/C/85/Add.1), the concluding observations issued in relation to that report (see A/39/18) and previous reviews of the implementation of the Convention undertaken in 1992 and 1996 (see A/47/18 and A/51/18, paras. 443-445). The Committee reiterates its regret that the State party has not submitted a report since the submission of its initial report in 1983.

238. Recalling that the purpose of the reporting system is for States parties to establish and maintain a dialogue with the Committee on the measures adopted, progress made and difficulties encountered in complying with the obligations under the Convention, the Committee regrets that Saint Vincent and the Grenadines has not been able to respond to its invitation to participate in the meeting and to furnish relevant information. In this connection, it is noted that the State party does not have diplomatic representation in Geneva. The Committee further notes that the non-performance by a State of its reporting obligations creates serious obstacles to the effective functioning of the monitoring system set up by the Convention.

239. The Committee reiterates its concern that the initial report of St. Vincent and the Grenadines did not comply with the requirements of article 9 of the Convention as it consisted of a single paragraph asserting that there was no form of racial discrimination practised in the country and that protection from such discrimination was provided in the basic clauses of the Constitution. In this connection, the Committee takes note of reports regarding the human rights situation in St. Vincent and the Grenadines, including alleged discrimination against certain minorities such as the Amerindians and Asians. Reports further indicate that these groups are over represented at the lower-income levels of the State economy and that members of some minorities consider that they have been discriminated against by the majority.

240. While noting that the State party recently submitted a detailed report to the Committee on the Rights of the Child (CRC/C/28/Add.18) and previously to the Committee on the Elimination of Discrimination against Women (A/52/38/Rev.1, paras.123-150), the Committee suggests that the Government of Saint Vincent and the Grenadines avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the High Commissioner for Human Rights, with the aim of preparing and submitting, as soon as possible, a report drafted in accordance with the reporting guidelines.

241. The Committee draws the attention of the State party to the provisions of the Declaration and Programme of Action of the World Conference against Racism, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and States are urged to cooperate with the Committee in order to promote the effective implementation of the Convention.

SWITZERLAND

242. The Committee considered the second and third periodic reports of Switzerland (CERD/C/351/Add.2), which were due on 29 December 1997 and 29 December 1999 respectively, as well as a supplementary report at its 1495th and 1496th meetings (CERD/C/SR.1495 and 1496), held on 4 and 5 March 2002. At its 1520th meeting (CERD/C/SR.1520), held on 21 March 2002, it adopted the following concluding observations.

A. Introduction

243. The Committee welcomes the detailed report submitted by the State party, the contents of which fully correspond to the Committee's revised reporting guidelines (CERD/C/70/Rev.5). The Committee appreciates the detailed answers to concerns expressed and recommendations made in its previous concluding observations, as well as the additional substantial oral information provided by the delegation in response to the questions asked. The Committee expresses its appreciation for the frank and constructive dialogue with the representatives of the State party.

B. Positive aspects

244. The Committee welcomes the progress made by the State party since the consideration of its initial report (CERD/C/270/Add.1) in significantly advancing the implementation of the provisions of the Convention. In this context, it welcomes the fact that the New Federal Constitution, which entered into force in January 2000, incorporates the principle that all human beings are equal before the law (art. 8).

245. The Committee notes with satisfaction that a number of recent reforms of cantonal constitutions have included provisions prohibiting discrimination.

246. The Committee also notes that the Convention forms an integral part of the Swiss legal system, that some of its provisions may be directly invoked before the courts and that the Federal Court has referred to the provisions of the Convention on several occasions.

247. The Committee welcomes the information provided by the State party on the number of cases dealt with by the courts under article 261 bis of the Penal Code, which penalizes public incitement to racial hatred and discrimination and the spreading of racist ideas.

248. The Committee expresses satisfaction at the establishment of a fund of 15 million Swiss francs aimed at financing projects to combat racism, which include the creation of a nationwide network of advisory centres for victims of racial discrimination. It further welcomes the creation of a Service to Combat Racism aimed, inter alia, at coordinating measures to combat racism, anti-Semitism, xenophobia and extremism within the federal administration and the cantons.

C. Concerns and recommendations

249. The Committee wishes to emphasize that despite the federal structure of the State party, which may render more difficult the full application of the State party's obligations under the Convention in all parts of its territory, the Federal Government has the responsibility of ensuring the implementation of the Convention on its entire territory and must ensure that cantonal authorities are aware of the rights set out in the Convention and take the necessary measures in order to respect them.

250. The persistence of hostile attitudes towards black people, Muslims and asylum-seekers in Switzerland is of utmost concern to the Committee. The Committee recommends that the State party continue its efforts to prevent and combat such attitudes, including through information campaigns and education of the general public. Further, in the light of its general recommendation XIX, the Committee encourages the State party to continue monitoring all tendencies which may give rise to racial or ethnic segregation and endeavour to combat the negative consequences of such tendencies.

251. The Committee is concerned at expressions of xenophobic and racist attitudes in naturalization procedures, particularly those subject to popular vote. It is also concerned that according to legislation still in force decisions taken in accordance with such procedures are not subject to legal review. The Committee is of the view that the right to appeal against decisions, in particular arbitrary or discriminatory ones, in matters relating to naturalization has to be made

an integral part of the policy on naturalization, currently in the process of being amended. Further, the State party should endeavour to avoid statelessness, particularly of children, on its territory, bearing in mind article 38 (3) of the new Federal Constitution, which stipulates that the Confederation "shall facilitate the naturalization of stateless children".

252. While welcoming the position of the Federal Council according to which segregated schooling would be contrary to the Federal Constitution, the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee expresses concern about recent moves towards the establishment of separate classes for foreign pupils in some cantons. It is the view of the Committee that segregated schooling may only in exceptional circumstances be considered as being in conformity with article 2 in conjunction with article 5 (e) (v) of the Convention.

253. Allegations of police abuse and excessive use of force against persons of foreign origin during arrest or in the course of deportations are also of concern. The Committee notes that many cantons do not have independent mechanisms for investigation of complaints regarding violence and abuse by the police, and that sanctions against responsible officers have been rare. The State party should ensure that independent bodies with authority to investigate complaints against police officers are established in all cantons. Efforts should also be made to recruit members of minority groups into the police and to provide sensitization and training of police officers on issues of racial discrimination.

254. While commending the important work undertaken by the Federal Commission against Racism, the Committee notes that the Commission has limited powers of action. The State party is invited to strengthen the powers and means of the Federal Commission against Racism. The present exercise to consider setting up a national human rights institution should take note of the criteria for setting up such institutions established by the General Assembly in its resolution 48/134 (the Paris Principles).

255. Noting that the former "three-circle" immigration policy of Switzerland which classified foreigners according to categories of national origin and capacity for integration was abandoned and replaced by a binary admissions system and in view of the dialogue held with the Swiss delegation in this respect, the Committee invites the State party to consider if the reservation to article 2 (1) (a) of the Convention is still necessary or may be withdrawn.

256. The Committee is also concerned about the situation of Travellers, including Roma and Jenish, in Switzerland and hopes that efforts will continue to be made to improve their living and working conditions.

257. The Committee requests information about the legislation in force prohibiting racial discrimination within the private sector in fields such as employment, housing, education, health and access to public places.

258. The Committee takes note of the proceedings under way at the level of the executive organs with a view to formulating the optional declaration provided for in article 14 of the Convention and encourages the State party to complete these proceedings.

259. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at national level.

260. The Committee recommends that the State party submit its fourth periodic report jointly with its fifth periodic report, due on 29 December 2003, that it be an updating one and that it addresses all points raised in the present observations.

TURKMENISTAN

261. At its 1507th meeting, held on 12 March 2002 (see CERD/C/SR.1507), the Committee reviewed the implementation of the Convention by Turkmenistan based on a variety of materials from both intergovernmental and non-governmental sources. The Committee notes that Turkmenistan does not have any representation in Geneva, but nevertheless regrets that the State party was not able to respond to its invitations to participate in the meeting and furnish relevant information. The Committee notes with concern that Turkmenistan, which acceded to the Convention in 1994, has not yet reported to the Committee. It wishes to draw to the attention of the State party that reporting is an obligation under article 9 of the Convention, and that non-compliance in this regard creates serious obstacles to the effective functioning of the monitoring system set up by the Convention.

262. Although Turkmenistan has ratified the main international instruments in the field of human rights, it has not reported to any United Nations treaty body. The State party, moreover, has not responded to communications sent by special rapporteurs of the Commission on Human Rights.

263. The Committee expresses deep concern about grave allegations of human rights violations in Turkmenistan, both in the civil and political, as well as social, economic and cultural domains and, in connection with article 5 of the Convention, would like to receive more information from the State party on these matters.

264. In particular, the Committee is concerned about alleged discrimination affecting persons belonging to minorities in the fields of employment and education, as well as with respect to the freedom of thought, conscience and religion. The Committee received information alleging that the State party's present policy of promotion of Turkmen identity leads to discrimination against persons not of Turkmen ethnicity.

265. The Committee further notes with deep concern that, according to information received, only the Russian Orthodox Church and the Sunni branch of Islam enjoy legal status, while other confessions are denied registration by the State party and their members are subject to increased persecution, such as disruption of religious services, including in private homes, prohibition of literature, detentions and ill-treatment of religious leaders, destruction of places of worship and restriction of freedom of movement imposed on religious leaders, which may be in contravention with article 5 of the Convention.

266. The Committee draws the attention of the State party to the provisions of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and States are urged to cooperate with the Committee in order to promote the effective implementation of the Convention.

267. The Committee strongly urges the Government of Turkmenistan to avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights, with the aim of drawing up and submitting as soon as possible a report drafted in accordance with the reporting guidelines. In this regard, the Committee wishes to draw the attention of the State party to its general recommendation X concerning technical assistance. The Committee suggests that the State party respond positively to the proposal made by the High Commissioner for Human Rights in February this year relating to the conduct of a human rights needs assessment in Turkmenistan. The aim of such an assessment is to formulate a programme to assist the State party in developing its national capacities to promote and protect human rights.

268. The Committee decided that a communication should be sent to the Government of Turkmenistan setting out its reporting obligations under the Convention and urging that the dialogue with the Committee start as soon as possible.

ARMENIA

269. The Committee considered the third and fourth periodic reports of Armenia, which were due on 23 July 1998 and 2000, respectively, submitted as one document (CERD/C/372/Add.3), at its 1529th and 1530th meetings (CERD/C/SR.1529 and 1530), held on 7 and 8 August 2002. At its 1537th meeting (CERD/C/SR.1537) held on 14 August 2002, it adopted the following concluding observations.

A. Introduction

270. The Committee welcomes the third and fourth periodic reports as well as the additional information that the State party's delegation provided during its oral presentation, and expresses its appreciation for the opportunity to continue its dialogue with the State party.

271. The Committee notes that the report contains information mainly on the legal framework for the protection of the rights of minorities and does not give sufficient information on the implementation of such legislation or on the extent to which minority communities enjoy the protection afforded by the Convention.

B. Positive aspects

272. The Committee notes with satisfaction that, notwithstanding the difficulties resulting from the Nagorny-Karabakh conflict and the serious economic and social challenges, the State party has made progress in the area of legislative reform. It notes with special interest that Armenia has ratified a number of international and regional human rights instruments.

273. The Committee welcomes the establishment of institutions relevant to the promotion and protection of human rights, such as the Human Rights Commission and the Coordinating Council on National Minorities. It notes with interest that a draft law on an ombudsman has been prepared and submitted to the National Assembly and a draft law on national minorities is being considered. The Committee encourages the State party to work towards formalizing these drafts and to keep the Committee informed of developments in this regard.

274. The Committee welcomes the information provided by the delegation regarding special programmes on tolerance and various activities for the promotion of human rights which are broadcast on television and distributed to NGOs. It also welcomes the holding of a seminar on religious and ethnic tolerance.

C. Concerns and recommendations

275. The Committee is concerned about the view expressed in the State party report that Armenia is a mono-ethnic State, and the inconsistency of this notion with the existence of several national and ethnic minorities, although they are not very numerous. While welcoming the background information provided on each national and ethnic group, the Committee recommends that the State party carefully analyse the situation and reflect the reality. The Committee invites the State party to provide detailed disaggregated data on the demographic composition of the population, as well as on the socio-economic situation of ethnic and national groups, including a gender perspective, in subsequent reports, so as to facilitate understanding of their situation.

276. The Committee reiterates its concern that the Penal Code currently in force, specifically article 69, is not in compliance with article 4 of the Convention. While noting the statement by the delegation that a new penal code is expected to enter into force in 2003, the Committee remains concerned that the drafting of new articles 220 et seq. of the new code may not fully address all the elements of article 4, in particular as regards the prohibition of organizations which promote and incite racial discrimination. The Committee recommends that prior to its coming into force the State party review the new penal code in the light of the provisions of the Constitution as well as of the provisions of article 4 of the Convention so as to ensure that the new penal code gives effect to all requirements.

277. The Committee notes with concern that no statistics on cases relating to racial discrimination have been provided and reiterates its request that such information be included in the next periodic report. The Committee reminds the State party that the absence of complaints and legal action by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies. The State party is requested to supply the relevant

provisions in the national legislation and to inform the public of the availability of all legal remedies. The Committee is concerned that no reply was received from the delegation with regard to allegations of discrimination against Yezidis by police and local authorities and lack of response by police to crimes committed against this minority by other citizens, and requests the State party to provide an answer in the next periodic report.

278. The Committee expresses its concern at the lack of representation of ethnic and national minorities in the National Assembly. It recommends that the State party take the necessary steps to secure due representation of minorities in the National Assembly and include relevant information relating thereto in its next report.

279. The Committee is concerned at the high rate of unemployment in the State party and regrets that no disaggregated data are available on the impact on ethnic and national minorities. It notes a lack of sufficient disaggregated information on the participation of minorities in the economic and social development of the country. The Committee reiterates its request for disaggregated data on access to health care, housing and employment by persons belonging to ethnic and national minorities.

280. While noting the adoption in 1999 of the Education Act guaranteeing the right to education without discrimination, the Committee remains concerned about inadequate access by minority children to education in their mother tongue and reiterates its recommendation that the State party take measures to ensure, wherever possible, such access.

281. The Committee encourages the Government to allocate resources to facilitate publications and broadcasting in minority languages. It welcomes the statement by the delegation that a special budget is to be established for that purpose.

282. The Committee is concerned about reports of obstacles imposed on religious organizations other than the Armenian Apostolic Church, such as those on carrying out charity work and on building places of worship. It urges the Government to take all necessary measures to ensure freedom of religion to all, without discrimination.

283. While noting that the State party, through its policy and legislation, does not engage in any discriminatory acts against refugees, some concern has been expressed that under article 25 of the Law on Refugees, restrictive measures are applied against asylum-seekers other than ethnic Armenians who fled Azerbaijan between 1988 and 1992 and that these measures may lead to discrimination on the basis of ethnic origin. The Committee welcomes the delegation's statement as to the possibility of reviewing the relevant provision.

284. The Committee requests that in its next periodic report, the State party provide additional information on the specific activities and achievements of the Coordinating Council of National Minorities, particularly with regard to the promotion of human rights, as well as on the activities of the Union of Nationalities and the Centre for the Settlement of Conflicts. The Committee encourages the State party to strengthen these institutions, bearing in mind the importance of such bodies for the achievement of the objectives of the Convention.

285. Noting that the State party is in the process of considering the establishment of an ombudsman, the Committee encourages the State party to accelerate and complete this process and to provide the necessary human and financial resources to enable the ombudsman to carry out his/her tasks in an effective way. The Committee requests the State party to provide information on the establishment, responsibilities and achievements of this institution in its next periodic report, particularly with regard to issues of racial discrimination.

286. The Committee encourage the State party to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

287. The Committee notes that the State party has not made the declaration provided for in article 14 of the Convention and invites the State party to consider doing so.

288. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

289. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

290. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

291. The Committee recommends that the State party submit its fifth periodic report jointly with its sixth periodic report, due on 23 July 2004, and that it address all points raised in the present concluding observations.

BOTSWANA

292. The Committee considered the sixth to fourteenth periodic reports of Botswana (CERD/C/407/Add.1), which were due biennially from 22 March 1985 to 22 March 2001, respectively, at its 1544th and 1545th meetings (CERD/C/SR.1544 and 1545), held on 19 and 20 August 2002. At its 1551st meeting (CERD/C/SR.1551), held on 23 August, it adopted the following concluding observations.

A. Introduction

293. The Committee welcomes the sixth to fourteenth periodic reports of Botswana and the resumption of the dialogue with the Committee after a lapse of 18 years. The Committee is encouraged by the attendance of a high-level delegation and expresses its appreciation for the constructive responses it provided.

294. The Committee welcomes the assurances given by the State party that it will ensure the timely submission of all periodic reports to the Committee and that these reports will be elaborated in compliance with the reporting guidelines.

B. Positive aspects

295. The Committee notes the progress made by the State party through the considerable investments by the Government in the areas of education, health and other welfare programmes, and the progress achieved generally in the enjoyment of socio-economic rights.

296. The Committee appreciates the statement made during the oral presentation that there would be consultations with civil society organizations in the preparation of future periodic reports of the State party.

C. Concerns and recommendations

297. The Committee notes that the report does not contain adequate information on the practical implementation of the Convention and does not fully conform with the Committee's reporting guidelines.

298. In the view of the Committee, the Constitution and the laws adopted in Botswana do not seem to respond fully to the requirements of the Convention. It recommends that the State party ensure that the Convention is comprehensively incorporated into domestic law. The Committee also reminds the State party that the adoption of programmes and strategies to ensure the practical implementation of the Convention is necessary.

299. The Committee notes the acknowledgement by the State party of the significant diversity of languages and cultures in Botswana, but regrets the lack of disaggregated data or precise information about the ethnic and linguistic composition of the population. The Committee recommends that the State party submit in its next periodic report such detailed information, in particular on the existence and situation of different ethnic groups, giving due consideration to paragraph 8 of the Committee's reporting guidelines. Specific information on gender-related dimensions of racial discrimination should also be included, as requested in the Committee's general recommendation XXV.

300. The Committee expresses concern that sections 3 and 15 of the Constitution do not fully respond to the requirements of article 1 of the Convention. In particular, section 15 permits many derogations from the prohibition of racial discrimination, for instance on the basis of laws, such as the Tribal Territories Act, which were in force before the coming into force of the Constitution. The Committee recommends that the State party review these provisions.

301. The Committee is concerned by the discriminatory character of certain domestic laws, such as the Chieftainship Act and the Tribal Territories Act, which only recognize the Tswana-speaking tribes. Other tribes, especially the Basarwa/San peoples, are reported to suffer from cultural, social, economic and political exclusion, do not enjoy group rights to land, and do not participate in the House of Chiefs. Noting that the amendment of sections 77 to 79 of the

Constitution is currently in process, the Committee recommends that recognition and representation of all tribes in Botswana on an equal basis be ensured in the Constitution, and that the Chieftainship Act and the Tribal Territories Act be amended accordingly.

302. The Committee is concerned at expressions of prejudice against the Basarwa/San people, including by public officials. It recommends that information be provided in the next periodic report on the practical implementation of article 4 of the Convention, in particular on the number of complaints received and cases prosecuted under the Penal Code or any other law relevant to the issue of racial discrimination, as well as on sentences for those found guilty of acts of racial discrimination and remedies provided to the victims.

303. The Committee notes with concern that, in spite of the significant economic growth achieved in Botswana, 47 per cent of the population remain below the poverty line and that no special and concrete measures have been taken to ensure the adequate development and protection of marginalized ethnic groups. The Committee recommends that the State party identify further the specific needs of persons belonging to minorities and indigenous peoples and adopt special measures to enhance equal enjoyment of human rights among the various sectors of the population.

304. The Committee expresses concern that the ongoing dispossession of Basarwa/San people from their land and about reports stating that their resettlement outside the Central Kalahari Game Reserve does not respect their political, economic, social and cultural rights. The Committee draws the attention of the State party to its general recommendation XXIII on indigenous peoples and recommends that no decisions directly relating to the rights and interests of members of indigenous peoples be taken without their informed consent. The Committee recommends that negotiations with the Basarwa/San and non-governmental organizations on this issue be resumed, and that a rights-based approach to development be adopted.

305. The Committee notes that the cultural and linguistic rights of the Basarwa/San are not fully respected, especially in educational curricula and in terms of access to the media. The Committee recommends that the State party fully recognize and respect the culture, history, languages and way of life of its various ethnic groups as an enrichment of the State's cultural identity and adopt measures to protect and support minority languages, in particular within education.

306. The Committee is concerned that HIV/AIDS affects all population groups in Botswana. It requests more information on the impact on the various ethnic groups of the national strategies developed in this regard, and that due consideration be given to the specific situation of women.

307. The Committee is concerned at reported cases of intimidation by local police in Gaborone against the Wayeyi people and recommends that thorough inquiries be conducted into these cases. The Committee recommends that human rights education programmes for law enforcement officers be undertaken, especially in matters relating to the elimination of racial discrimination. It requests that the next periodic report of the State party contain information about the steps taken in this regard.

308. The Committee expresses concern about information relating to the forced repatriation of some Namibian refugees. Taking note of the responses provided by the delegation, the Committee recommends that repatriation be effected only when voluntary, and requests that more information be provided on the situation of refugees in Botswana in the next periodic report.

309. The Committee notes that the State party has not made the optional declaration provided for in article 14 of the Convention and recommends that the possibility of doing so be considered.

310. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention which were adopted on 15 January 1992 at the Fourteenth Meeting of States Parties and endorsed by the General Assembly in its resolution 47/111.

311. With regard to the difficulties encountered in the preparation of its periodic reports mentioned by the State party, the Committee recommends that it avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights for its next periodic report.

312. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at national level.

313. Noting with appreciation the statement by the State party that it will consult with non-governmental organizations in the process of preparing its periodic reports, the Committee recommends that these reports be made widely available to the public from the time they are submitted and that the Convention, as well as the Committee's concluding observations, be widely publicized.

314. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth periodic report, due on 22 March 2005, and that it address the points raised in the present observations.

CANADA

315. The Committee considered the thirteenth and fourteenth periodic reports of Canada (CERD/C/320/Add.5), which were due on 15 November 1995 and 15 November 1997, respectively, at its 1525th and 1526th meetings (CERD/C/SR.1524 and 1525), held on 5 and 6 August 2002. At its 1547th meeting (CERD/C/SR.1547), held on 21 August, it adopted the following concluding observations.

A. Introduction

316. The Committee welcomes the thirteenth and fourteenth periodic reports of Canada, as well as the additional information provided by the delegation. The Committee expresses its appreciation for the attendance of a high-ranking delegation and the constructive dialogue which the Committee was able to have with the State party.

317. The Committee notes that the periodic reports were submitted with a delay of about six and four years, respectively, and that they covered the period 1993-1997, although they were submitted in 2001.

318. The Committee welcomes the input from all levels of government into the State party's periodic reports, but notes that the reports do not fully comply with the Committee's reporting guidelines. In particular, the existence of different sections in the report for federal, provincial and territorial action does not give a comprehensive picture of the measures adopted by Canada to implement the Convention.

B. Positive aspects

319. The Committee notes with satisfaction the strong and steadfast commitment to human rights manifested by Canada through, in particular, the existence of numerous federal, provincial and territorial instruments and institutions aimed at enhancing human rights, such as the Canadian Charter of Rights and Freedoms, the Canadian Human Rights Act, and the provincial and territorial Human Rights Acts.

320. The Committee notes the central importance and significance of the Multiculturalism Act and the relevant policy developed by the State party, which includes measures to protect and promote cultural diversity.

321. The Committee further notes with satisfaction the Statement of Reconciliation made by the Federal Government expressing Canada's profound regret for the historic injustices committed against Aboriginal people, in particular within the residential school system. The Committee further welcomes the commitment of the State party to building a new partnership with Aboriginal people and the adoption of numerous programmes for their benefit.

322. The Committee expresses its appreciation for the introduction of an amendment to the Canadian Human Rights Act to repeal the provision excluding the Indian Act from the scope of the Canadian Human Rights Act.

323. The Committee welcomes the extension of the scope of the Employment Equity Act to the federal public service and the Canadian Forces, and notes with satisfaction the progress achieved regarding the representation of Aboriginals and minorities in the federal public service.

324. The Committee welcomes the amendment to the Criminal Code (sect. 718.2) introducing racial discrimination as an aggravating circumstance.

325. The Committee welcomes the acceptance by the State party, on 8 February 1995, of the amendment to article 8, paragraph 6, of the Convention.

C. Concerns and recommendations

326. The Committee reiterates that the principal responsibility for the implementation of the Convention lies with the Federal Government of Canada. The Committee is concerned that the Federal Government cannot compel the provincial and territorial governments to align their laws with the requirements of the Convention. Noting in this connection the inter-provincial consultative procedure, in which the federal authorities are appropriately involved, the Committee expresses the hope that this procedure will be intensified so that proper implementation of the Convention is ensured at all levels.

327. The Committee notes that the Canadian Charter of Rights and Freedoms does not impose obligations on non-State actors and suggests that the possibility of enlarging the scope of this instrument in that respect be considered.

328. The Committee reiterates its concern about references to "visible minorities" in Canadian anti-discrimination policy since this term, which basically refers to non-white persons, does not appear to cover fully the scope of article 1 of the Convention.

329. The Committee notes with concern that the process of implementing the recommendations adopted in 1996 by the Royal Commission on Aboriginal Peoples has not yet been completed. The Committee regrets that no in-depth information was provided by the periodic reports on this matter, and requests that the State party indicate in detail in its next periodic report which recommendations of the Royal Commission were responded to and in what way.

330. The Committee expresses concern about the difficulties which may be encountered by Aboriginal peoples before the courts in establishing Aboriginal title over land. The Committee notes in this connection that to date no Aboriginal group has proven Aboriginal title, and recommends that the State party examine ways and means to facilitate the establishment of proof of Aboriginal title over land in procedures before the courts.

331. The Committee views with concern the direct connection between Aboriginal economic marginalization and the ongoing dispossession of Aboriginal people from their land, as recognized by the Royal Commission. The Committee notes with appreciation the assurance given by the delegation that Canada would no longer require a reference to extinguishment of surrendered land and resource rights in any land claim agreements. The Committee requests that in the next periodic report, information be provided on the significance and consequences of limitations imposed on the use by Aboriginal people of their land.

332. The Committee is concerned that some aspects of the Indian Act may not be in conformity with rights protected under article 5 of the Convention, in particular the right to marry and to choose one's spouse, the right to own property and the right to inherit, with a

specific impact on Aboriginal women and children. The Committee recommends that the State party examine those aspects, in consultation with Aboriginal peoples, and provide appropriate information on this matter in its next periodic report.

333. The Committee reiterates its concern about the high rate of incarceration of, violence against and deaths in custody of Aboriginals and people of African and Asian descent, and recommends that the next periodic report contain information on the efficacy of programmes adopted with a view to reducing these phenomena and on the results of any inquiries undertaken.

334. The Committee is concerned with the high number of incidents of discrimination targeting Aboriginals and people belonging to minorities in the field of employment. The Committee recommends that the State party submit more detailed information on the results achieved to eradicate racial discrimination in the field of employment, including management positions, at federal, provincial and territorial levels and in the public and private sectors, and provide the Committee with disaggregated data, as well as an assessment of the activities of the employment equity review tribunals.

335. The Committee expresses concern about information on patterns of racial discrimination affecting people of African and Asian descent and at expressions of prejudice in the media against such people, as well as against foreigners and refugees. It is further concerned that the State party focuses on the prohibition of activities conducted by racist organizations rather than on the prohibition of such organizations, as required by article 4 (b) of the Convention. The Committee wishes to receive more information on the practical implementation of article 4 of the Convention and of section 718.2 of the Criminal Code, which establishes racial discrimination as an aggravating circumstance.

336. The Committee notes with concern that current immigration policies, in particular the present level of the "right of landing fee", may have discriminatory effects on persons coming from poorer countries. The Committee is also concerned about information that most foreigners who are removed from Canada are Africans or of African descent. The Committee recommends that greater attention be given to the possible discriminatory effect of Canadian immigration policies.

337. The Committee is concerned about allegations that children of migrants with no status have been excluded from the school system in some of the provinces and hopes that the situation will be remedied.

338. The Committee notes with concern that, in the aftermath of the events of 11 September 2001 Muslims and Arabs have suffered from increased racial hatred, violence and discrimination. The Committee therefore welcomes the statement of the Prime Minister in the Ottawa Central Mosque condemning all acts of intolerance and hatred against Muslims, as well as the reinforcement of Canadian legislation to address hate speech and violence. In this connection, the Committee requests the State party to ensure that the application of the Anti-terrorism Act does not lead to negative consequences for ethnic and religious groups, migrants, asylum-seekers and refugees, in particular as a result of racial profiling.

339. The Committee notes a significant discrepancy between the number of complaints relating to racial discrimination brought before Canadian human rights commissions and the relatively small number of positive admissibility decisions. It recommends that the State party ensure the efficiency and accessibility of the complaint system, in conformity with article 6 of the Convention.

340. The Committee invites the State party to reconsider the possibility of making the declaration provided for in article 14 of the Convention.

341. Despite the reservations expressed by Canada on the Durban Declaration and Programme of Action, the Committee strongly recommends that the State party take into account the relevant parts of these documents when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement them at the national level.

342. The Committee suggests that the State party consult with non-governmental organizations in the process of drafting its periodic reports. It further recommends that these reports be made widely available to the public from the time they are submitted and that the Committee's concluding observations be similarly publicized.

343. The Committee requests that, when drafting the next report, the Government of Canada follow the sequence of the articles of the Convention and include subsections on measures adopted at all levels, including by provincial and territorial governments. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth, seventeenth and eighteenth periodic reports on 15 November 2005 and that it address the points raised in the present observations in that report.

ESTONIA

344. The Committee considered the fifth periodic report of Estonia (CERD/C/373/Add.2) at its 1542nd and 1543rd meetings (CERD/C/SR.1542 and 1543), held on 16 and 19 August 2002. At its 1549th meeting (CERD/C/SR.1549), held on 22 August 2002, the Committee adopted the following concluding observations.

A. Introduction

345. The Committee welcomes the detailed and comprehensive report submitted by the State party, which was drafted in accordance with the guidelines for the preparation of reports, and the additional oral information provided by the delegation. The continuation of an open and constructive dialogue with the State party is equally welcomed.

346. The Committee is also encouraged by the detailed answers given to the questions and issues raised in its previous concluding observations.

347. Furthermore, the Committee welcomes the fact that, during the preparation of the State party's report, non-governmental organizations were invited to provide observations and comments.

B. Positive aspects

348. The Committee appreciates the increasing debate about and recognition of the multicultural nature of society in the State party. In this regard, the Committee welcomes the progressive implementation of the State programme "Integration in Estonian Society 2000-2007", aiming at furthering the integration of minorities at the socio-economic level, and appreciates the improved public access to the reports and preliminary results of the programme, including through the web site of the Ministry for Foreign Affairs.

349. The Committee welcomes the enactment of the new Penal Code which contains provisions relating to the criminalization of incitement to racial hatred and violation of equality.

350. The Committee also welcomes the amendment to the Act on Basic and Upper Secondary Schools which authorizes secondary schools to continue teaching in languages other than Estonian beyond 2007.

351. The Committee notes with satisfaction that the immigration quota no longer applies to the spouses of both Estonian and non-Estonian citizens residing in Estonia or to children under the age of 15.

352. The Committee welcomes the improved access to the office of the Legal Chancellor and, especially, the opening of a new office in Ida-Viru county.

C. Concerns and recommendations

353. The Committee remains concerned about the very high number of stateless persons residing in Estonia. Although it welcomes the fact that the naturalization procedure has been made easier for children and disabled persons, the Committee notes the existence of a significant discrepancy between the number of people passing the language proficiency test and those effectively filing applications and acquiring Estonian citizenship. The Committee recommends a thorough investigation into possible barriers which may exist, both in terms of the naturalization procedure and in relation to lack of motivation to apply for citizenship. The Committee also calls for a speedy resolution of the issue concerning the difficulties in obtaining citizenship for children born in Estonia of long-term residents whose legal status has not yet been determined.

354. The Committee is also concerned that former Soviet Union military personnel residing in Estonia are prevented from acquiring Estonian citizenship and is of the opinion that their applications should be considered on a case-by-case basis.

355. The Committee remains concerned by the restrictive definition of national minorities contained in the 1993 National Minorities Cultural Autonomy Act. The Committee reiterates that such a narrow definition may limit the scope of the State integration programme and have the effect of transforming a policy of integration into a policy of assimilation.

356. The Committee is concerned about the scope of language requirements in the Language Law in relation to employment, particularly in the private sector, and is of the opinion that they could lead to discrimination against minorities in violation of article 5 of the Convention. The Committee wishes to receive specific information explaining the relationship between language skills, ethnic background and employment, as well as information on the wage levels of different ethnic groups.

357. The Committee remains concerned about the situation of the Russian minority residing in Estonia, inter alia in relation to issues under article 5 of the Convention, especially economic, social and cultural rights, including the rights to employment, health care and education. The Committee is particularly concerned about double discrimination against women based on gender and on national or ethnic origin.

358. The Committee is concerned that the limited access to remedies hinders the bringing of complaints of discrimination in relation to, inter alia, the labour market, housing and education. The Committee recommends that the equality council mentioned in the draft equality act be established, in accordance with general recommendation XVII, as a national human rights institution with the mandate to advise and to monitor relevant legislation and practice and with competence to deal with individual complaints against acts of discrimination in the public or private sector.

359. Although it welcomes the elimination of the language requirements from the Election Act and the Local Government Council Election Act, the Committee expresses concern that, according to article 48 of the Estonian Constitution, only citizens can be members of political parties. Furthermore, the Committee considers it important that political bodies of towns with a majority of Russian-speaking inhabitants are offered the possibility of conducting their work also in Russian, as stipulated in the Law on Languages and in the Local Government Organization Act. The Committee invites the State party to include in its next periodic report more detailed information on this issue and on the progress achieved.

360. The State party is invited to provide in its next periodic report statistical information on immigration, in relation to the number of family reunification applications filed, the number of accepted and rejected applications and the main reasons for rejection.

361. The Committee recommends that the Government of Estonia consider becoming a party to the Convention on the Reduction of Statelessness (1961), the Convention relating to the Status of Stateless Persons (1954) and the Convention against Discrimination in Education (1960) of the United Nations Educational, Scientific and Cultural Organization.

362. Noting the steps taken by the State party to make the declaration under article 14 of the Convention, the Committee looks forward to receiving information on this issue in the next periodic report.

363. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties and endorsed by the General Assembly in its resolution 47/111.

364. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at the national level.

365. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized in Estonian and in languages of national minorities.

366. The Committee recommends that the State party's next report, due on 20 November 2004, be an updating report that addresses the points made and concerns addressed in the present observations.

HUNGARY

367. The Committee considered the fourteenth, fifteenth, sixteenth and seventeenth periodic reports of Hungary (CERD/C/431/Add.1), due on 4 January 1996, 1998, 2000 and 2002, respectively, submitted in one document, at its 1541st and 1542nd meetings (CERD/C/SR.1541 and 1542), held on 15 and 16 August 2002. At its 1551st meeting (CERD/C/SR.1551) held on 22 August 2002, it adopted the following concluding observations.

A. Introduction

368. The Committee welcomes with satisfaction the consolidated report of Hungary, as well as the additional oral and written information provided by the State party. The Committee expresses its appreciation for the attendance of a high-ranking delegation, including members of minorities, and for the constructive dialogue which the Committee was able to have with the State party.

B. Positive aspects

369. The Committee welcomes the commitment to human rights manifested by Hungary through the adoption of a series of legal provisions promoting and protecting human rights, the establishment of relevant institutions and the implementation of pertinent programmes in this field.

370. The Committee reiterates, in particular, its satisfaction at the promulgation and implementation of Act LXXVII of 1993 on the Rights of National and Ethnic Minorities, which recognizes 13 minorities and provides them with a degree of cultural autonomy, as well as a wide range of educational and linguistic rights, and sets up a system of minority self-governments.

371. The Committee also welcomes the introduction of new provisions into the Criminal Code through Act XVII of 1996, in particular article 174 B penalizing violence against members of national, ethnic or racial minorities and religious groups. The Committee notes the positive elements incorporated in Law Decree No. 11 of 1997 modernizing certain provisions of the

Rules on the Enforcement of Punishment, with a view to prohibiting discrimination among convicted persons and to ensuring the basic rights of foreign convicted persons, and in Act CX of 1999 amending the Code of Civil Procedure so as to reinforce the principle that no one shall be discriminated against because of lack of knowledge of the Hungarian language.

372. The Committee further welcomes the positive elements incorporated in section 93 of Act LXIX of 1993 on the Law on Minor Offences dealing with discrimination against employees; in Act XVI of 2001 on the amendment of the Labour Code defining, in particular, "indirect discrimination" and affirming the principle of affirmative action; in Act I of 1996 on Radio and Television Broadcasting, aiming at preventing hate speech and discrimination on racial, national and ethnic grounds; as well as in Act CXXXIX of 1997 on Asylum, as amended, abrogating geographical restrictions concerning asylum-seekers.

373. The Committee commends the activities of the Parliamentary Commissioner for National and Ethnic Minority Rights and of the Parliamentary Commissioner for Civil Rights and takes note with appreciation of the recent establishment and activities of many other human rights institutions and administrative bodies, in particular for promoting the rights and interests of Roma.

C. Concerns and recommendations

374. While noting the above efforts, the Committee expresses concern at persisting intolerance and discrimination, especially in relation to the Roma minority, as well as at xenophobic manifestations against immigrants, refugees and asylum-seekers.

375. Noting that the Government of Hungary is working on a comprehensive anti-discrimination law, the Committee encourages the State party to complete its efforts as soon as possible, taking into account the United Nations Model National Legislation for the Guidance of Governments in the Enactment of Further Legislation against Racial Discrimination as well as the Committee's general recommendations, in particular general recommendation XXVII concerning discrimination against Roma.

376. Further to decision No. 12/1999 (V.21) of the Hungarian Constitutional Court which annulled part of section 269 of the Criminal Code punishing incitement to hatred, the State party committed itself to enacting the necessary provisions to prohibit hate speech. The Committee expresses concern that the existing legislation does not cover all aspects of article 4 of the Convention. The Committee recalls its general recommendations VII and XV which stress, inter alia, the mandatory character of this provision and recommends the adoption of further amendments to the Hungarian Criminal Code to encompass all those aspects, including the prohibition of organizations and activities mentioned in article 4 (b) of the Convention.

377. Furthermore, the Committee requests that the next periodic report provide specific information on the application by the national courts of article 174/B of the Criminal Code and of all other relevant provisions to give effect to article 4 of the Convention. The Committee also recommends that the State party pursue and extend training programmes for judges and prosecutors aiming at sensitizing them to discrimination issues.

378. The Committee is concerned about the number of allegations of ill-treatment and discrimination against the Roma and non-citizens by law enforcement officials, especially the police. The Committee notes that the "Medium-Term Package of Measures to Improve the Living Conditions and Social Position of the Roma Population", as revised, contains a section on police behaviour in connection with members of the Roma minority. The Committee is aware, however, that the above practices have not ceased.

379. The Committee recommends that the State party intensify its efforts to combat ill-treatment of Roma and non-citizens by the police, especially through the strict application of relevant legislation and regulations providing for sanctions, adequate training and instructions to be given to law enforcement bodies and the sensitization of the judiciary. The State party should also consider recruiting more members of minority groups, especially of the Roma minority, to serve in law enforcement bodies and strengthening the existing legal aid system for alleged victims, as well as empowering parliamentary commissioners to investigate allegations of ill-treatment and discrimination by the police.

380. The Committee is concerned at the prevailing conditions in refugee shelters and the conditions of detention of undocumented immigrants. Noting the efforts of the State party in this respect, the Committee strongly encourages the Hungarian authorities to further improve the existing facilities so that they meet international standards and to provide relevant information thereon in the next periodic report.

381. The Committee expresses concern at the fact that minorities are under-represented in Parliament. The Committee appreciates the fact that the State party is considering amending existing legislation so as to ensure better parliamentary representation of minorities and encourages it to proceed in this direction.

382. The Committee notes that, notwithstanding the measures provided for in the "Medium-Term Package of Measures", the drop-out rates among Roma students remain high, especially in secondary education and even more so at university level. The Committee strongly recommends that the State party reconsider its policy of assigning Roma children to schools and classes for the mentally disabled. The Committee is also concerned about discriminatory practices resulting from the system of separate classes for Roma students and from private schooling arrangements. While noting that the State party intends to improve the education of Roma, the Committee further recommends that new programmes integrate Roma children into mainstream schools as far as possible, in order to avoid discrimination.

383. The Committee is concerned at the disproportionately higher unemployment rate among the Roma population. The Committee recommends that the State party strictly apply existing anti-discriminatory provisions in that field and ensure in particular that Roma have fair access to professional training programmes and professional activities.

384. The Committee is concerned that the Roma population is disproportionately subjected to discrimination in respect of housing and, in particular, to forced eviction. The Committee recommends that the State party take further positive measures to effectively address the issue of discrimination with regard to housing.

385. The Committee expresses concern about discriminatory practices against persons belonging to the Roma minority in respect of access to public places such as restaurants, bars and cafés. The Committee recommends that the State party continue to intensify its efforts to combat such behaviour and raise the awareness of the population about all aspects of racial discrimination.

386. The Committee is also concerned about the possible discriminatory effects in the socio-economic field of Act LXII of 2001 on "Hungarians living in neighbouring countries" and requests that the State party provide information about the content and application of this law in its next periodic report.

387. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

388. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

389. The Committee recommends that the State party's reports be made readily available to the public, including in the national language, from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

390. The Committee recommends that the State party submit its eighteenth periodic report, due on 4 January 2004, that it be an updating report, and that it address the points raised in the present concluding observations.

MALI

391. The Committee considered the seventh to fourteenth periodic reports of Mali, submitted in one document (CERD/C/407/Add.2), at its 1546th and 1547th meetings (CERD/C/SR/1546 and 1547) on 20 and 21 August 2002 and, at its 1551st meeting (CERD/C/SR/1551), on 23 August 2002, adopted the following concluding observations.

A. Introduction

392. The Committee welcomes the fourteenth periodic report submitted by the State party and the supplementary information provided orally by the delegation. Noting that the preceding report was considered in 1986, it is pleased to be able to resume its dialogue with the State party under the normal reporting procedure. The Committee is satisfied with the constructive replies given by the delegation to the questions asked. It also notes that the report takes account of its reporting guidelines and addresses a number of the concerns and recommendations set forth orally during the last meeting with representatives of the State party in August 2001.

B. Factors and difficulties impeding the implementation of the Convention

393. The Committee notes that Mali is currently facing serious economic problems, which, given the structure and geographical distribution of its population, represent obstacles that may hinder the State party's efforts to implement the Convention.

C. Positive aspects

394. The Committee notes that the present periodic report contains many positive aspects. In particular, it provides useful information on Mali's ethnic make-up and gives reassurances concerning solutions to the situation in the north of the country. It also contains useful information on the socio-economic context and the problems posed by poverty. The legal and institutional framework and the competent authorities in the area of human rights are, furthermore, well explained.

395. The Committee notes with satisfaction that Mali is a party to a range of international human rights instruments and has recently ratified the Optional Protocols to the Convention on the Rights of the Child and ILO Convention No. 138 concerning the minimum age for admission to employment.

396. The Committee welcomes the establishment of a National Advisory Commission on Human Rights, a Ministry for the Advancement of Women, Children and the Family, and the office of Ombudsman. It also welcomes the original initiative of convening a "democratic discussion forum", on 10 December each year.

397. The Committee welcomes the information concerning human rights education as part of the training given to State officials, the promotion of national languages, the development of press freedom and the growing role of NGOs in Mali.

D. Concerns and recommendations

398. The Committee notes with concern the social and cultural inequalities that continue to affect rural populations. It regrets that the present report does not provide information on access to development for the various ethnic groups or on the distribution of wealth among those groups, in particular nomadic peoples.

399. The Committee would appreciate receiving information on implementation of the national poverty reduction programme launched by the Government in September 1998.

400. While noting the information provided by the State party on the ethnic composition of the population, the Committee would like fuller information on the representation of the various ethnic groups in public bodies.

401. The Committee notes that, despite the detailed information provided on the constitutional and legislative instruments prohibiting racial discrimination at the national level, the report gives no examples of their practical implementation or of the opportunity of invoking the Convention directly before the domestic courts.

402. The Committee notes with concern the lack of information concerning complaints, prosecutions or judgements relating to offences of racial discrimination. The Committee recalls that the absence of complaints or prosecutions for acts of racism in a country is not necessarily a positive sign, for no State is immune to manifestations of racism.

403. The Committee invites the State party to provide information on the status of the Convention in the legislation of Mali and on the possibility for private individuals to invoke the provisions of the Convention directly before the domestic courts. It would also like to receive information on the practical application of the instruments prohibiting racial discrimination and on the number of complaints and prosecutions relating to acts of racism.

404. With regard to the problem of double discrimination, the Committee would like to know, in light of its general recommendation XXV of 20 March 2000 and of the relevant provisions of the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, what measures have been taken or are envisaged to help those at particular risk, especially children and women.

405. The Committee also invites the State party to provide fuller information in its next report on the following issues: (a) the situation of those who are particularly at risk, especially children victims of exploitation, talibé and garibou children, and women in rural areas; (b) measures taken to eradicate the practice of female genital mutilation; and (c) the impact of AIDS and other endemic diseases and the measures envisaged to control and prevent them.

406. In light of its general recommendation XXIX of 22 August 2002 and bearing in mind the explanations provided by the delegation concerning the practice of sinangouya and the relative nature of the caste system, which does not hinder social mobility in Mali, the Committee would like to receive information on the approach the State party intends to take regarding the persistence of the consequences of a traditional caste system that could give rise to descent-based discrimination.

407. It is noted that the State party has not made the declaration under article 14 of the Convention and the Committee recommends that consideration be given to doing so.

408. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

409. The Committee recommends that the State party should take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, and that it should include information in its next periodic report on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

410. The Committee suggests that the State party should consult with NGOs when preparing its periodic reports. It also recommends that the reports should be widely disseminated to the public at large as soon as they have been submitted, and that the Committee's concluding observations should be publicized in the same way.

411. The Committee recommends that the State party's fifteenth and sixteenth periodic reports be submitted in one document, due on 15 August 2005, that it should be a complete report and that it should address all the issues raised in these concluding observations.

NEW ZEALAND

412. The Committee considered the combined twelfth, thirteenth and fourteenth periodic reports of New Zealand, which were due on 22 December 1995, 1997 and 1999, respectively, submitted as one document (CERD/C/362/Add.10), at its 1539th and 1540th meetings (CERD/C/SR.1539 and 1540), held on 14 and 15 August 2002. At its 1551st meeting (CERD/C/SR.1551), held on 22 August 2002, it adopted the following concluding observations.

A. Introduction

413. The Committee expresses its appreciation to the State party for its detailed report, which contains pertinent information on the law and practice relating to the implementation of the Convention. It further welcomes the supplementary and updated information provided to the Committee, including the detailed answers given by the delegation to the questions posed by members of the Committee.

414. The Committee notes with appreciation that the report contains information on developments, as well as responses to the concerns identified by the Committee in its concluding observations on the previous report.

B. Positive aspects

415. The Committee welcomes the information that the "fiscal envelope" policy, which limited both the total funds available for the settlement of claims with Maori and for the settlement of all historical claims, was abandoned in 1996 in favour of a programme of "fair and equitable" settlements. The Committee is encouraged by the progress that has since been made on the settlement of historical Maori grievances and claims with individual iwi (tribes), including components of financial compensation and formal apology on behalf of the Crown.

416. The Committee welcomes acknowledgement of the disadvantaged position in society of minorities, especially Maori, and accordingly appreciates the large number of initiatives, programmes and projects in the areas of health, education, employment, social welfare, housing, language and culture, and correctional services, which are designed to address the specific needs of Maori, Pacific Island people and persons from other groups such as refugees and ethnic minorities.

417. The Committee welcomes the examination by the New Zealand Human Rights Commission of all domestic acts, regulations, government policies and administrative practices with a view to assessing their consistency with the anti-discrimination provisions of the Human Rights Act, a programme known as Consistency 2000. It further welcomes the comprehensive audit process undertaken by the Government to identify and resolve possible inconsistencies between the Human Rights Act and other legislation and regulations, known as Compliance 2001.

418. The Committee notes with satisfaction the provisions of the Human Rights Amendment Act 2001, which amalgamates the New Zealand Human Rights Commission and the office of the Race Relations Conciliator and provides for a single complaints system for the determination of human rights complaints as well as for the possibility of challenging government action before the Human Rights Review Tribunal and the courts.

419. The Committee welcomes the introduction of amendments to the electoral roll system, in particular the Maori electoral option, which have contributed to an appreciable increase in the representation of Maori in Parliament.

420. The Committee welcomes the State party's policies and initiatives designed to improve the status and use of the Maori language, including the increases supply of services in the Maori language, including in education and State broadcasting.

421. The Committee notes with satisfaction that the Sentencing Act 2002 provides, in section 9 (1) (h), that where an offender commits an offence wholly or partly because of hostility towards a group of persons with common characteristics such as race or colour, this must be taken into account as an aggravating factor by the court in the sentencing process.

C. Concerns and recommendations

422. While noting the programmes and projects initiated by the State party mentioned above, the Committee remains concerned about the continuing disadvantages that Maori, Pacific Island people and other ethnic communities face in the enjoyment of social and economic rights, such as the rights to employment, housing, social welfare and health care. The State party is invited to devote priority attention to this issue and to continue to encourage active and effective participation by Maori in the search for solutions such as the Maori Mental Health Strategic Framework adopted in May 2002, with a view to further reducing these disadvantages.

423. The Committee continues to be concerned at the low representation of Maori women in a number of key sectors and their particular vulnerability to domestic violence. It encourages the State party to work towards reducing existing disparities through appropriate strategies.

424. While noting the measures that have been taken by the State party to reduce the incidence and causes of crime within the Maori and Pacific Island communities, the Committee remains concerned at the disproportionately high representation of Maori and Pacific Islanders in correctional facilities. The State party is invited to ensure appropriate funding for the measures envisaged or already initiated to address the problem.

425. The Committee takes note of the operation of sections 131 and 134 of the Human Rights Act, according to which the institution of criminal proceedings against those accused of incitement to racial hatred is subject to the consent of the Attorney-General. Observing that the institution of such proceedings is rare, the State party is invited to consider ways and means of facilitating the institution of proceedings in this field.

426. The Committee notes that the report provides limited information on compliance with article 4 of the Convention. It invites the State party in its next periodic report to provide more extensive information on measures taken to comply with this article. In particular, the Committee would appreciate additional information concerning the proscription of racist organizations, as well as the modalities for dealing with complaints of discrimination and the remedies granted to victims who have well-founded complaints.

427. The Committee notes with concern that almost all asylum-seekers presenting themselves at the border after the events of 11 September 2001 were initially detained. While it notes that this practice by the New Zealand Immigration Service was successfully challenged in the High Court and the practice of detaining asylum-seekers has been suspended except for a small number of cases, it also notes that the High Court's decision has been appealed by the Immigration Service and that the practice may resume if the appeal is successful.

428. The Committee has noted the recent interpretation of the concepts of "affirmative action" and "equality" by the former Complaints Review Tribunal in relation to section 73 of the Human Rights Act, and by the High Court in relation to section 65 of the Human Rights Act. While it lacks detailed information about the two cases referred to in the report of the State party, it considers that the State party appears to take a narrower view of the scope of special measures than is provided for in articles 1 and 2 of the Convention.

429. The Committee notes that there is limited information in the report on the enjoyment of the rights mentioned in article 5 of the Convention by ethnic minorities other than the Maori. The Committee recommends that further information be submitted in this regard in the next periodic report.

430. The Committee notes the extensive work currently under way to review constitutional arrangements for Tokelau. It encourages the State party to ensure that, while giving due attention to the culture and customs of the people of Tokelau, human rights obligations are woven appropriately into any new constitutional arrangements.

431. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of doing so be considered.

432. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

433. The Committee recommends that the State party's reports be made readily available to the public from the time of their submission and public release and that the Committee's concluding observations on these reports be similarly publicized.

434. The Committee recommends that the State party submit jointly its fifteenth, sixteenth and seventeenth periodic reports, due on 22 December 2005, that it be an updating report and that it address the points raised in the present concluding observations.

SENEGAL

435. The Committee considered the eleventh, twelfth, thirteenth, fourteenth and fifteenth periodic reports of Senegal, submitted as one document (CERD/C/408/Add.2), at its 1527th and 1528th meetings (CERD/C/SR.1527 and 1528), on 6 and 7 August 2002. At its 1549th meeting (CERD/C/SR.1549), on 21 August 2002, the Committee adopted the following concluding observations.

A. Introduction

436. The Committee welcomes with satisfaction the periodic reports submitted by the State party and the supplementary information provided orally by the delegation. The Committee was encouraged by the fact that the Government was represented by a high-level delegation and offered frank and constructive replies to the questions posed and comments made. Moreover, the Committee pays tribute to the vital role played by Senegal in the preparations for and holding of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

437. The Committee recognizes that the State party has taken into account some of the concerns and recommendations it had set out in its concluding observations relating to the ninth and tenth periodic reports (A/49/18, paras. 332-361). However, the new report is an updated version setting out new facts and some information requested by the Committee, rather than the full report, notably on the effective application of national legislation relating to discrimination.

B. Positive aspects

438. The Committee notes with satisfaction the progress made in the field of human rights and welcomes the role played by NGOs in Senegal.

439. The Committee welcomes Senegal's attachment to human rights and the active role it has played in this field at both international and regional levels. The Committee notes with satisfaction that Senegal is a party to many international instruments for the protection of human rights, and that it has recently ratified the Optional Protocols to the Convention on the Rights of the Child and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

440. The Committee notes with satisfaction the State party's efforts to establish institutions for the protection of human rights, such as the Human Rights Committee, the Inter-Ministerial Committee on Human Rights and the Human Rights and Humanitarian Law Office, and notes the enhanced presence of women in public bodies, their access to ownership of property and the banning of genital mutilation. It also appreciates the Government's efforts to settle the conflict in Casamance.

C. Concerns and recommendations

441. The Committee regrets the lack of statistics relating to the ethnic breakdown of the population and the representation of the various ethnic groups in Senegal's political institutions, as well as their participation in public bodies entrusted with ensuring respect for human rights. The Committee reminds the State party of general recommendations IV and XXIV, dated 25 August 1973 and 28 August 1999, respectively, and calls on it to include statistics in the next report.

442. Noting that no acts of racial discrimination have been brought before domestic courts or institutions for the promotion and protection of human rights, the Committee invites the State party to supply information on case law relating to the rights set forth in the Convention and on steps taken to increase public awareness of its provisions.

443. The Committee seeks clarification concerning forms of discrimination affecting women, from the viewpoint of double discrimination, based both on sex and on national or ethnic origin.

444. The Committee recommends that the State party supplement its legislation in order to give effect to article 4 of the Convention, bearing in mind the Committee's general recommendation XV, which is relevant in this context.

445. The Committee notes with concern the continuing legacy in Senegal of aspects of a caste-based system, despite its having been banned by law. It recommends that the State party ensure that the existing provisions are effectively applied, including by taking steps to guarantee access to justice for victims, in accordance with its general recommendation XXVI.

446. The Committee recommends that in its next periodic report the State party supply detailed and comprehensive information on the steps that have been taken at the national level to apply the provisions of article 5 and article 7 of the Convention and to prevent any kind of discrimination in the enjoyment of economic, social and cultural rights by ethnic groups, including in Casamance.

447. The Committee recommends that the State party take into account the relevant sections of the Durban Declaration and Programme of Action when applying the provisions of the Convention in the internal legal system, and provide information in its next periodic report on the plans of action and other measures adopted to apply the Durban Declaration and Programme of Action at the national level.

448. The Committee draws the State party's attention to the amendment to article 8, paragraph 6, of the Convention, which was approved and endorsed on 15 January 1992 at the Fourteenth Meeting of States Parties and welcomed by the General Assembly in resolution 47/111, and calls on it speedily to take the necessary steps to ensure that the amendment is officially accepted.

449. The Committee recommends that the State party's periodic reports be made readily available to the public from the time they are submitted, and that the Committee's concluding observations on them be similarly publicized.

450. The Committee recommends that the State party submit its sixteenth and seventeenth periodic reports in a single report, due on 23 July 2004, and that it reply to all questions raised in the present concluding observations.

YEMEN

451. The Committee considered the eleventh, twelfth, thirteenth and fourteenth periodic reports of Yemen (CERD/C/362/Add.8), submitted in one document, which were due on 17 November 1993, 1995, 1997 and 1999, respectively, at its 1535th and 1536th meetings (CERD/C/SR.1535 and 1536) held on 12 and 13 August 2002. At its 1549th meeting (CERD/C/SR.1549), held on 21 August 2002, it adopted the following concluding observations.

A. Introduction

452. The Committee welcomes the eleventh, twelfth, thirteenth and fourteenth periodic reports, submitted in one document, as well as the additional information that the State party's delegation provided during its oral presentation and its detailed and frank answers to the wide range of questions formulated by members of the Committee. The Committee also expresses its appreciation for the opportunity to renew its dialogue with the State party after a lapse of 10 years.

B. Positive aspects

453. The Committee welcomes recent developments in the State party with regard to human rights, in particular the measures of social welfare undertaken by the State party to improve the living conditions of marginalized individuals and groups.

454. The Committee welcomes the State party's willingness to cooperate with United Nations bodies and NGOs in the field of human rights, including on issues relating to racial discrimination, and the progress made by Yemen in opening up a dialogue with civil society.

455. Noting with satisfaction the appointment of a Minister of State for Human Rights in Yemen, the Committee welcomes General Electoral Act No. 27 of 1996, including its amendments of 1999, and the Political Parties and Organizations Act recognizing fundamental freedoms, including political and party pluralism.

456. The Committee welcomes the establishment of a Higher National Human Rights Committee which monitors the fulfilment of the State party's obligations.

C. Factors and difficulties impeding the implementation of the Convention

457. The Committee acknowledges that, as a result of the civil war in mid-1994, the State party suffered serious socio-economic and political difficulties which affect its capacity to implement fully the provisions in the Convention. The Committee recognizes that some of these difficulties persist in the State party.

D. Concerns and recommendations

458. The Committee expresses concern about the fact that the national legislation of Yemen does not contain explicit provisions prohibiting discrimination on the grounds of race or ethnic and national origin, in conformity with the provisions of the Convention.

459. The Committee regrets the lack of information in the report, despite the Committee's previous requests, concerning the demographic composition of the population and the socio-economic status of ethnic groups. The Committee recommends that the State party in its next report provide detailed information on the composition of the population, as requested in the reporting guidelines of the Committee. It also recommends that the State party provide specific information on the economic and social status of all groups covered by the Convention, as well as on their participation in public life.

460. The Committee is not satisfied with the claim by the State party that there is no racial discrimination in Yemen. It recommends that the State party take effective measures to prevent racial discrimination and give full effect to the provisions of the Convention.

461. The Committee expresses concern at the absence of an explicit penal provision in the State party's legislation in respect of the mandatory provision prohibiting the dissemination and promotion of racial discrimination and violence formulated in article 4 of the Convention. The Committee recommends that the State party revise its Penal Code in order to introduce specific legislation and implement the provisions of article 4.

462. While noting that the State party has provided information under article 5 of the Convention despite the reservations lodged, the Committee invites the State party to continue to provide specific information on how this article is implemented and to consider formally withdrawing those reservations.

463. Given recent political developments, the Committee also invites the State party to consider formally withdrawing its reservations to articles 17, 18 and 20 of the Convention.

464. The Committee notes the information given by the delegation regarding the conditions governing the acquisition of Yemeni nationality. The Committee recommends that the State party take effective measures to ensure the right to acquire nationality for non-citizens, including for non-Muslims and children of mixed couples, without any discrimination.

465. With regard to the right to equal treatment before the courts, the Committee notes the absence of information in the report on cases relating to racial discrimination. It recommends that the State party include in its next periodic report specific information on any such cases.

466. In connection with the implementation of article 7 of the Convention, the Committee suggests that the State party consider intensifying human rights education and training of law enforcement officers, teachers, social workers and public servants, and draws attention to its general recommendation XIII in that regard.

467. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures taken to implement the Durban Declaration and Programme of Action at the national level.

468. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

469. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of doing so be considered.

470. The Committee recommends that the State party submit its fifteenth periodic report jointly with its sixteenth periodic report, due on 17 November 2005, that it be an updating report and that it address the points raised in the present concluding observations.

FIJI

471. At its 1530th meeting (CERD/C/SR.1530), held on 8 August 2002, the Committee conducted a preliminary dialogue with representatives of the Government of Fiji and, at its 1543rd meeting (CERD/C/SR.1543), held on 19 August 2002, adopted the following observations.

472. The Committee welcomes the presence of the Fijian representative and notes the submission of the sixth to fifteenth periodic reports of the State party, due biennially from 10 February 1984 to 2002, respectively, and presented in one document, as well as an updated core document. The Committee appreciates the desire of the Government of Fiji to renew its dialogue with the Committee and commends the State party for the efforts it has made.

473. The Committee, noting that the report is incomplete in many aspects welcomes the undertaking of the delegation to submit to the Committee a completed report by 30 September 2002 so that its examination can be scheduled for the sixty-second session in March 2003.

474. Responding to the suggestion of the State party in its note verbale of 7 August 2002 that questions and requests for further clarification as a result of the submission of the reports be presented in advance, the Committee recommends that the State party ensure that detailed information is submitted on the following:

(a) The social confrontation and economic decline that are reported to occur in Fiji in connection with the allegedly politically polarized race relations, in particular between indigenous Fijians and Indo-Fijians;

(b) The significance and consequences of the reservation and declarations formulated by the State party, in particular those relating to the implementation of article 5 of the Convention and indigenous rights;

(c) The results, if any, of the court challenge introduced in 2001 against the alleged ethnic imbalance in the Government;

(d) The alleged cancellation in June 2001 of the charity status of the Citizens Constitutional Forum, a multi-ethnic NGO, after it filed constitutional challenges against the Government in court.

475. The Committee wishes the State party to provide more information on existing mechanisms in Fiji to address racial discrimination under both domestic and international law and on their accessibility and efficiency.

476. The Committee notes that first steps have been achieved by the Fijian authorities towards consultation with NGOs in the process of drafting a periodic report and encourages the State party to pursue its efforts in this regard. It recommends that the completed report be made widely available to the public from the time it is submitted to the Committee.

IV. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

477. Under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, individuals or groups of individuals who claim that any of their rights enumerated in the Convention have been violated by a State party and who have exhausted all available domestic remedies may submit written communications to the Committee on the Elimination of Racial Discrimination for consideration. A list of 41 States parties which have recognized the competence of the Committee to consider such communications can be found in Annex I. In the period under review, seven more States have made the declaration under article 14: Austria, Azerbaijan, Brazil, Germany, Mexico, Monaco and Slovenia.

478. Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

479. The Committee began its work under article 14 of the Convention at its thirtieth session, in 1984. At its thirty-sixth session (August 1988), the Committee adopted its Opinion on communication No. 1/1984 (Yilmaz-Dogan v. the Netherlands). At its thirty-ninth session, on 18 March 1991, the Committee adopted its Opinion on communication No. 2/1989 (Demba Talibe v. France). At its forty-second session, on 16 March 1993, the Committee, acting under rule 94, paragraph 7, of its rules of procedure, declared admissible and adopted its Opinion on communication No. 4/1991 (L.K. v. the Netherlands). At its forty-fourth session, on 15 March 1994, the Committee adopted its Opinion on communication No. 3/1991 (Michel L.N. Narrainen v. Norway). During its forty-sixth session (March 1995), the Committee declared inadmissible communication No. 5/1994 (C.P. v. Denmark). At its fifty-first session (August 1997), the Committee declared inadmissible communication No. 7/1995 (Barbaro v. Australia). At its fifty-third session (August 1998), the Committee declared inadmissible communication No. 9/1997 (D.S. v. Sweden). At its fifty-fourth session (March 1999), the Committee adopted its Opinions on communications No. 8/1996 (B.M.S. v. Australia) and 10/1997 (Habassi v. Denmark). At its fifty-fifth session (August 1999), the Committee adopted its Opinion on communication No. 6/1995 (Z.U.B.S. v. Australia). At its fifty-sixth session (March 2000), the Committee adopted its Opinions on communications No. 16/1999 (Kashif Ahmad v. Denmark) and No. 17/1999 (B.J. v. Denmark). At its fifty-seventh session, the Committee adopted its Opinion on communication No. 13/1998 (Koptova v. Slovak Republic) and declared communication No. 12/1998 (Barbaro v. Australia) inadmissible for lack of exhaustion of domestic remedies.

480. At its fifty-eighth session (March 2001), the Committee adopted its Opinion on communication No. 15/1999 (E.I.F. v. the Netherlands). Also at its fifty-eighth session, the Committee declared communication No. 18/2000 (F.A. v. Norway) inadmissible under rule 91 (f) of the rules of procedure for failure to submit the communication within the time limit of six months following the exhaustion of domestic remedies.

481. At its fifty-ninth session, the Committee adopted its Opinion on communication No. 11/1998 (Lacko v. Slovakia) and declared communication No. 19/2000 (Mostafa v. Denmark) inadmissible on account of non-exhaustion of domestic remedies. Also at that session, two similar communications by the same petitioner were declared inadmissible for non-exhaustion of domestic remedies (Nos. 14/1998 and 21/2001, D.S. v. Sweden) in the context of the petitioner's unsuccessful applications for employment and her failure to pursue available appeal procedures. Also at that session, the Committee declared communication No. 20/2000 admissible.

482. At its sixtieth session (13 March 2002), the Committee adopted its Opinion on Communication No. 20/2000 (M.B. v. Denmark) which is reproduced in full in annex III, section A. The case concerned a Danish citizen of Brazilian origin who was refused access to a restaurant-discotheque in Copenhagen, allegedly for racial reasons. The author claimed that the State party had failed to honour its obligations under article 2, paragraph 1 (d), and article 6 of the Convention by not having conducted a proper investigation into the real reasons for her "treatment". The Committee considered that, owing to a number of circumstances, including the fact that the incident was reported to the police 26 days after it had occurred, "the police could not accomplish a complete and in-depth investigation of the case". The Committee therefore lacked sufficient information to conclude that a violation of the Convention had been committed in that case. However, the Committee further emphasized "the importance it attaches to the duty of the State party and, for that matter, of all States parties, to remain vigilant, in particular by prompt and effective police investigations of complaints, that the right established under article 5, paragraph (f), is enjoyed without discrimination by all persons, nationals or foreigners, under the jurisdiction of the State party" (see annex III, section A, para. 10).

483. At its sixty-first session (13 August 2002), the Committee adopted its Opinion on communication No. 23/2002 (K.R.C. v. Denmark) which is reproduced in full in annex III, section B. The case concerned a citizen of the United States who claimed that the State party had violated its obligations under article 2, paragraph 1 (d), and 6 of the Convention in failing to investigate effectively her allegation that a bank had refused to grant her a loan on the grounds that she was not a Danish citizen. The Committee considered the communication inadmissible as the act of refusal by the bank had not actually been accomplished and the author had failed to establish the existence of the facts giving rise to the complaint.

V. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

484. Under article 15 of the Convention, the Committee on the Elimination of Racial Discrimination is empowered to consider copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories to which General Assembly resolution 1514 (XV) applies, transmitted to it by the competent bodies of the United Nations, and to submit to them and to the General Assembly its expressions of opinion and recommendations relating to the principles and objectives of the Convention in those territories.

485. At the request of the Committee, Mr. Pillai examined the documents made available to the Committee in order for it to perform its functions pursuant to article 15 of the Convention. At its 1543rd meeting (sixty-first session), Mr. Pillai presented his report, for the preparation of which he took into account the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples covering its work during 2001 (A/56/23) and copies of the working papers on the 17 territories prepared by the Secretariat for the Special Committee and the Trusteeship Council in 2001 and listed in document CERD/C/414 as well as in annex IV to the present report.

486. The Committee notes that since the consideration of the working papers in respect of these territories, East Timor has gained independence. In respect of the remaining Non-Self-Governing Territories, the working papers contain references to incidents of a racial nature and to population structure, which are of relevance to the work of the Committee.

487. Firstly, the Committee notes references to certain cases of racial discrimination reported in respect of two Non-Self-Governing Territories, namely, the Untied States Virgin Islands and Bermuda. In 1997, more than 3,000 black farmers submitted a class action lawsuit against the United States Department of Agriculture alleging discrimination against black farmers in the disbursement of loans. In January 1999, the Department settled the dispute in favour of the farmers, agreeing to provide monetary compensation. In January 2000, another broad class action suit was filed against the United States Department of Agriculture alleging systematic discriminatory practices by its Rural Development Office against Blacks and Hispanics who tried to participate in its housing loans and grants programmes. In Bermuda, the legislature passed a law in January 2000 requiring every company with more than 10 employees to present detailed information on its racial make-up. The working paper on Bermuda further says that surveys have shown that many among the black population in Bermuda believe that they suffer racial discrimination in the workplace, particularly in the international business sector, which is dominated mainly by white overseas workers.

488. Secondly, the Committee discerns a significant ethnic diversity in the demographic structure of some of the Non-Self-Governing Territories. In New Caledonia, the population consists of indigenous Melanesians known as Kanaks constituting 42.5 per cent, people of

European origin constituting 37.1 per cent, Wallisians 8.4 per cent, Polynesians 3.8 per cent and others, mostly Vietnamese (8.2 per cent). In American Samoa, the population consists of 89 per cent Polynesian, 4 per cent Tongan, 2 per cent Caucasian and 5 per cent other groups. In the Cayman Islands, 58 per cent of the population are native-born Cayman Islanders, 25 per cent are people of African descent and the rest are mixed.

489. The Committee noted, as it had done in the past, that it was difficult to fulfil its functions comprehensively under article 15 of the Convention as a result of the absence of any copies of petitions pursuant to paragraph 2 (a) and due to the fact that the copies of the reports received pursuant to paragraph 2 (b) contain only scant information directly related to the principles and objectives of the Convention.

490. The Committee was aware that certain States parties had over the years submitted information on the implementation of the Convention in Territories they were administering or which were otherwise under their jurisdiction and to which article 15 also applies. This practice, based on the reporting obligations of States parties pursuant to article 9 of the Convention, must be encouraged and consistent. The Committee is mindful, however, that the procedures under article 9 of the Convention should be clearly distinguished from those under article 15.

491. The Committee noted that in the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples reference is made to the relations between the Special Committee and the Committee and to the Special Committee's continuous monitoring of related developments in Territories, having regard to the relevant provisions of article 15 of the Convention. The Committee further noted, however, that issues concerning racial discrimination, and directly related to the principles and objectives of the Convention, are not reflected in the sections of the report of the Special Committee which deal with review of work and future work of the Special Committee.

492. The Committee wishes to reiterate the following opinions and recommendations:

(a) The Committee has again not received copies of any petitions pursuant to article 15, paragraph 2 (a), of the Convention. Should pertinent petitions become available, the Committee requests the Secretary-General to provide it with copies of these petitions and any other information relevant to the objectives of the Convention and available to him regarding the Territories mentioned in article 15, paragraph 2 (a);

(b) In the materials to be prepared by the Secretariat for the Special Committee and to be made available by the Secretary-General to the Committee pursuant to paragraph 2 (b) of article 15 of the Convention, more systematic attention should be given to matters directly related to the principles and objectives of the Convention. The Special Committee is invited to take this concern into account when planning its work;

(c) States parties which are administering Non-Self-Governing Territories or otherwise exercising jurisdiction over Territories are requested to include or to continue to include in their reports to be submitted pursuant to article 9, paragraph 1, relevant information on the implementation of the Convention in all Territories under their jurisdiction.

VI. ACTION TAKEN BY THE GENERAL ASSEMBLY AT ITS FIFTY-SIXTH SESSION

493. The Committee considered this agenda item at its sixtieth and sixty-first sessions. For its consideration of this item the Committee had before it the Report of the Third Committee on the elimination of racism and racial discrimination (A/56/581) and General Assembly resolutions 56/265, 56/266, 56/267 and 56/268. In resolution 56/267 General Assembly: (a) commended the Committee for its role in the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination; (b) urged States that have not yet done so to consider ratifying or acceding to the international human rights instruments that combat racism, racial discrimination, xenophobia and related intolerance, in particular to accede to the Convention as a matter of urgency, with a view to achieving universal ratification by 2005 and to consider making the declaration envisaged under article 14 thereof, to comply with their reporting obligations and to publish and act upon the concluding observations of the Committee and also urged States to withdraw reservations contrary to the object and purpose of that Convention and to consider withdrawing other reservations; and (c) urged States to adopt and implement or strengthen national legislation and administrative measures that expressly and specifically counter racism and prohibit racial discrimination, xenophobia and related intolerance, whether direct or indirect, in all spheres of public life, in accordance with their obligations under the Convention ensuring that their reservations are not contrary to its object and purpose.

494. Concerning the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights, the Committee had before it the report of the thirteenth meeting of persons chairing the human rights treaty bodies (A/57/56, annex).

VII. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION

A. Reports received by the Committee

495. At its thirty-eighth session, in 1988, the Committee decided to accept the proposal of the States parties that States parties submit a comprehensive report every four years and a brief updating report in the two-year interim. Other relevant working methods developments are discussed in chapter IX. Table 1 lists reports received from 18 August 2001 to 23 August 2002.

Table 1

Reports received during the period under review (18 August 2001 to 23 August 2002)

State party	Type of report	Date on which the report was due	Symbol
Bolivia	Fourteenth report	22 September 1997	CERD/C/409/Add.3
	Fifteenth report	22 September 1999	
	Sixteenth report	22 September 2001	
Botswana	Sixth report	22 March 1985	CERD/C/407/Add.1
	Seventh report	22 March 1987	
	Eighth report	22 March 1989	
	Ninth report	22 March 1991	
	Tenth report	22 March 1993	
	Eleventh report	22 March 1995	
	Twelfth report	22 March 1997	
	Thirteenth report	22 March 1999	
	Fourteenth report	22 March 2001	
Cape Verde	Third report	2 November 1984	CERD/C/426/Add.1
	Fourth report	2 November 1986	
	Fifth report	2 November 1988	
	Sixth report	2 November 1990	
	Seventh report	2 November 1992	
	Eighth report	2 November 1994	
	Ninth report	2 November 1996	
	Tenth report	2 November 1998	
	Eleventh report	2 November 2000	
	Twelfth report	2 November 2002	
Côte d'Ivoire	Fifth report	3 February 1982	CERD/C/382/Add.2
	Sixth report	3 February 1984	
	Seventh report	3 February 1986	
	Eighth report	3 February 1988	

State party	Type of report	Date on which the report was due	Symbol
Côte d'Ivoire (cont'd)	Ninth report	3 February 1990	
	Tenth report	3 February 1992	
	Eleventh report	3 February 1994	
	Twelfth report	3 February 1996	
	Thirteenth report	3 February 1998	
	Fourteenth report	3 February 2000	
	Fifteenth report	3 February 2002	
Cyprus	Supplementary report to the sixteenth periodic report		CERD/C/384/Add.4 (suppl.)
Ecuador	Thirteenth report	4 January 1994	CERD/C/384/Add.8
	Fourteenth report	4 January 1996	
	Fifteenth report	4 January 1998	
	Sixteenth report	4 January 2000	
Estonia	Fifth report	20 November 2000	CERD/C/373/Add.2
Finland	Sixteenth report	13 August 2001	CERD/C/409/Add.2
Ghana	Sixteenth report	4 January 2000	CERD/C/431/Add.3
	Seventeenth report	4 January 2002	
Hungary	Fourteenth report	4 January 1996	CERD/C/431/Add.1
	Fifteenth report	4 January 1998	
	Sixteenth report	4 January 2000	
	Seventeenth report	4 January 2002	
Latvia	Fourth report	14 May 1999	CERD/C/398/Add.2
	Fifth report	14 May 2001	
Mali	Seventh report	15 August 1987	CERD/C/407/Add.2
	Eighth report	15 August 1989	
	Ninth report	15 August 1991	
	Tenth report	15 August 1993	
	Eleventh report	15 August 1995	
	Thirteenth report	15 August 1997	
	Fourteenth report	15 August 1999	
	Fifteenth report	15 August 2001	
Morocco	Fourteenth report	17 January 1998	CERD/C/430/Add.1
	Fifteenth report	17 January 2000	
	Sixteenth report	17 January 2002	

State party	Type of report	Date on which the report was due	Symbol
New Zealand	Twelfth report	22 December 1995	CERD/C/362/Add.10
	Thirteenth report	22 December 1997	
	Fourteenth report	22 December 1999	
Norway	Sixteenth report	5 September 2001	CERD/C/430/Add.2
Poland	Fifteenth report	4 January 1998	CERD/C/384/Add.6
	Sixteenth report	4 January 2000	
Russian Federation	Fifteenth report	6 March 1998	CERD/C/431/Add.2
	Sixteenth report	6 March 2000	
	Seventeenth report	6 March 2002	
Saudi Arabia	Initial report	22 October 1998	CERD/C/370/Add.1
	Second report	22 October 2000	
Slovenia	Fifth report	6 July 2001	CERD/C/398/Add.1
Tunisia	Thirteenth report	4 January 1994	CERD/C/431/Add.4
	Fourteenth report	4 January 1996	
	Fifteenth report	4 January 1998	
	Sixteenth report	4 January 2000	
	Seventeenth report	4 January 2002	
Yemen	Eleventh report	17 November 1993	CERD/C/362/Add.8
	Twelfth report	17 November 1995	
	Thirteenth report	17 November 1997	
	Fourteenth report	17 November 1999	

B. Reports not yet received by the Committee

496. Table 2 lists reports which were due before the end of the sixty-first session but which have not yet been received.

Table 2

Reports due before the closing date of the sixty-first session (23 August 2002) but which have not yet been received

State party	Type of report	Date on which the report was due	Number of reminders sent
Afghanistan	Second report	5 August 1986	13
	Third report	5 August 1988	11
	Fourth report	5 August 1990	9
	Fifth report	5 August 1992	8
	Sixth report	5 August 1994	7
	Seventh report	5 August 1996	6
	Eighth report	5 August 1998	4
	Ninth report	5 August 2000	2
Albania	Initial report	10 June 1995	6
	Second report	10 June 1997	5
	Third report	10 June 1999	3
	Fourth report	10 June 2001	2
Algeria	Fifteenth report	15 March 2001	-
Antigua and Barbuda	Initial report	24 November 1989	7
	Second report	24 November 1991	7
	Third report	24 November 1993	6
	Fourth report	24 November 1995	6
	Fifth report	24 November 1997	5
	Sixth report	24 November 1999	3
	Seventh report	24 November 2001	1
Argentina	Sixteenth report	4 January 2000	2
	Seventeenth report	4 January 2002	1
Australia	Thirteenth report	30 October 2000	1
Azerbaijan	Third report	15 September 2001	1
Bahamas	Fifth report	4 September 1984	15
	Sixth report	4 September 1986	11
	Seventh report	4 September 1988	9
	Eighth report	4 September 1990	9
	Ninth report	4 September 1992	8
	Tenth report	4 September 1994	7

State party	Type of report	Date on which the report was due	Number of reminders sent
Bahamas (cont'd)	Eleventh report	4 September 1996	6
	Twelfth report	4 September 1998	4
	Thirteenth report	4 September 2000	2
Bahrain	Sixth report	26 April 2001	1
Bangladesh	Twelfth report	11 January 2002	1
Barbados	Eighth report	8 December 1987	10
	Ninth report	8 December 1989	10
	Tenth report	8 December 1991	7
	Eleventh report	8 December 1993	6
	Twelfth report	8 December 1995	6
	Thirteenth report	8 December 1997	4
	Fourteenth report	8 December 1999	3
	Fifteenth report	8 December 2001	1
Belarus	Fifteenth report	8 May 1998	4
	Sixteenth report	8 May 2000	3
	Seventeenth report	8 May 2002	1
Bosnia and Herzegovina*	Initial report	16 July 1994	6
	Second report	16 July 1996	6
	Third report	16 July 1998	4
	Fourth report	16 July 2000	3
	Fifth report	16 July 2002	1
Brazil	Fourteenth report	4 January 1996	6
	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Bulgaria	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Burkina Faso	Twelfth report	17 August 1997	5
	Thirteenth report	17 August 1999	3
	Fourteenth report	7 August 2001	2
Burundi	Eleventh report	26 November 1998	4
	Twelfth report	26 November 2000	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Cambodia	Eighth report	28 December 1998	3
	Ninth report	28 December 2000	2
Cameroon	Fourteenth report	24 July 1998	4
	Fifteenth report	24 July 2000	3
	Sixteenth report	24 July 2002	1
Central African Republic	Eighth report	15 April 1986	13
	Ninth report	15 April 1988	11
	Tenth report	15 April 1990	11
	Eleventh report	15 April 1992	8
	Twelfth report	15 April 1994	7
	Thirteenth report	15 April 1996	6
	Fourteenth report	15 April 1998	4
	Fifteenth report	15 April 2000	3
	Sixteenth report	15 April 2002	1
Chad	Tenth report	16 September 1996	6
	Eleventh report	16 September 1998	4
	Twelfth report	16 September 2000	2
Chile	Fifteenth report	19 November 2000	1
Colombia	Tenth report	2 October 2000	1
Congo	Initial report	10 August 1989	6
	Second report	10 August 1991	6
	Third report	10 August 1993	5
	Fourth report	10 August 1995	5
	Fifth report	10 August 1997	4
	Sixth report	10 August 1999	2
	Seventh report	10 August 2001	1
Cuba	Fourteenth report	16 March 1999	3
	Fifteenth report	16 March 2001	2
Czech Republic	Fifth report	22 February 2002	1
Democratic Republic of the Congo	Eleventh report	21 May 1997	5
	Twelfth report	21 May 1999	3
	Thirteenth report	21 May 2001	2
Dominican Republic	Ninth report	24 June 2000	2
	Tenth report	24 June 2002	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Ecuador	Seventeenth report	4 January 2002	-
Egypt	Seventeenth report	4 January 2002	1
El Salvador	Ninth report	30 December 1996	5
	Tenth report	30 December 1998	3
	Eleventh report	30 December 2000	2
Ethiopia	Seventh report	23 July 1989	7
	Eighth report	23 July 1991	7
	Ninth report	23 July 1993	6
	Tenth report	23 July 1995	6
	Eleventh report	23 July 1997	5
	Twelfth report	23 July 1999	3
	Thirteenth report	23 July 2001	2
Fiji	Sixth report	10 February 1984	15
	Seventh report	10 February 1986	11
	Eighth report	10 February 1988	9
	Ninth report	10 February 1990	9
	Tenth report	10 February 1992	8
	Eleventh report	10 February 1994	7
	Twelfth report	10 February 1996	6
	Thirteenth report	10 February 1998	4
	Fourteenth report	10 February 2000	3
	Fifteenth report	10 February 2002	1
France	Fifteenth report	27 August 2000	1
Gabon	Tenth report	30 March 1999	3
	Eleventh report	30 March 2001	2
Gambia	Second report	28 January 1982	20
	Third report	28 January 1984	16
	Fourth report	28 January 1986	12
	Fifth report	28 January 1988	9
	Sixth report	28 January 1990	9
	Seventh report	28 January 1992	8
	Eighth report	28 January 1994	7
	Ninth report	28 January 1996	6
	Tenth report	28 January 1998	4
	Eleventh report	28 January 2000	3
	Twelfth report	28 January 2002	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Guatemala	Eighth report	17 February 1998	4
	Ninth report	17 February 2000	3
	Tenth report	17 February 2002	1
Guinea	Twelfth report	13 April 2000	2
	Thirteenth report	13 April 2002	1
Guyana	Initial report	17 March 1978	27
	Second report	17 March 1980	23
	Third report	17 March 1982	19
	Fourth report	17 March 1984	14
	Fifth report	17 March 1986	12
	Sixth report	17 March 1988	9
	Seventh report	17 March 1990	9
	Eighth report	17 March 1992	8
	Ninth report	17 March 1994	7
	Tenth report	17 March 1996	6
	Eleventh report	17 March 1998	4
	Twelfth report	17 March 2000	3
	Thirteenth report	17 March 2002	1
Haiti	Fourteenth report	18 January 2000	2
	Fifteenth report	18 January 2002	1
Holy See	Sixteenth report	31 May 2000	2
	Seventeenth report	31 May 2002	1
India	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Indonesia	Initial report	25 July 2000	1
	Second report	25 July 2002	1
Iran, Islamic Republic of	Sixteenth report	4 January 2000	2
	Seventeenth report	4 January 2002	1
Iraq	Fifteenth report	13 February 1999	3
	Sixteenth report	13 February 2001	2
Ireland	Initial report	28 January 2002	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Israel*	Tenth report	2 February 1998	4
	Eleventh report	2 February 2000	3
	Twelfth report	2 February 2002	1
Japan	Third report	14 January 2001	-
Jordan	Thirteenth report	29 June 1999	3
	Fourteenth report	29 June 2001	2
Kazakhstan	Initial report	25 September 1999	3
	Second report	25 September 2001	1
Kuwait	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Kyrgyzstan	Second report	5 October 2000	1
Lao People's Democratic Republic	Sixth report	24 March 1985	13
	Seventh report	24 March 1987	10
	Eighth report	24 March 1989	9
	Ninth report	24 March 1991	7
	Tenth report	24 March 1993	6
	Eleventh report	24 March 1995	6
	Twelfth report	24 March 1997	5
	Thirteenth report	24 March 1999	3
	Fourteenth report	24 March 2001	2
Lebanon	Fourteenth report	12 December 1998	3
	Fifteenth report	12 December 2000	2
Lesotho	Fifteenth report	4 December 2000	1
Liberia	Initial report	5 December 1977	27
	Second report	5 December 1979	23
	Third report	5 December 1981	19
	Fourth report	5 December 1983	16
	Fifth report	5 December 1985	12
	Sixth report	5 December 1987	9
	Seventh report	5 December 1989	9
	Eighth report	5 December 1991	8
	Ninth report	5 December 1993	7
	Tenth report	5 December 1995	6

State party	Type of report	Date on which the report was due	Number of reminders sent
Liberia (cont'd)	Eleventh report	5 December 1997	4
	Twelfth report	5 December 1999	3
	Thirteenth report	5 December 2001	1
Libyan Arab Jamahiriya	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Luxembourg	Tenth report	31 May 1997	5
	Eleventh report	31 May 1999	3
	Twelfth report	31 May 2001	2
Madagascar	Tenth report	9 March 1988	10
	Eleventh report	9 March 1990	10
	Twelfth report	9 March 1992	7
	Thirteenth report	9 March 1994	6
	Fourteenth report	9 March 1996	6
	Fifteenth report	9 March 1998	4
	Sixteenth report	9 March 2000	3
	Seventeenth report	9 March 2002	1
Malawi	Initial report	11 July 1997	5
	Second report	11 July 1999	3
	Third report	11 July 2001	2
Maldives	Fifth report	24 May 1993	6
	Sixth report	24 May 1995	6
	Seventh report	24 May 1997	5
	Eighth report	24 May 1999	3
	Ninth report	24 May 2001	2
Malta	Fifteenth report	26 June 2000	2
	Sixteenth report	26 June 2002	1
Mauritania	Sixth report	12 January 2000	2
	Seventh report	12 January 2002	1
Mauritius	Fifteenth report	29 June 2001	1
Mexico	Twelfth report	22 March 1998	4
	Thirteenth report	22 March 2000	3
	Fourteenth report	22 March 2002	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Monaco	Initial report	27 October 1996	6
	Second report	27 October 1998	4
	Third report	27 October 2000	2
Mongolia	Sixteenth report	5 September 2000	1
Mozambique	Second report	18 May 1986	13
	Third report	18 May 1988	11
	Fourth report	18 May 1990	11
	Fifth report	18 May 1992	8
	Sixth report	18 May 1994	7
	Seventh report	18 May 1996	6
	Eighth report	18 May 1998	4
	Ninth report	18 May 2000	3
	Tenth report	18 May 2002	1
Namibia	Eighth report	11 December 1997	4
	Ninth report	11 December 1999	3
	Tenth report	11 December 2001	1
Nepal	Fifteenth report	1 March 2000	2
	Sixteenth report	1 March 2002	1
Netherlands	Fifteenth report	9 January 2001	1
Nicaragua	Tenth report	17 March 1997	5
	Eleventh report	17 March 1999	3
	Twelfth report	17 March 2001	2
Niger	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Nigeria	Fourteenth report	4 January 1996	6
	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Pakistan	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1

State party	Type of report	Date on which the report was due	Number of reminders sent
Panama	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Papua New Guinea	Second report	26 February 1985	14
	Third report	26 February 1987	11
	Fourth report	26 February 1989	9
	Fifth report	26 February 1991	8
	Sixth report	26 February 1993	6
	Seventh report	26 February 1995	6
	Eighth report	26 February 1997	5
	Ninth report	26 February 1999	3
	Tenth report	26 February 2001	2
Peru	Fourteenth report	29 October 1998	4
	Fifteenth report	29 October 2000	2
Philippines	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Poland	Seventeenth report	4 January 2002	-
Republic of Korea	Eleventh report	4 January 2000	2
	Twelfth report	4 January 2002	1
Romania	Sixteenth report	15 October 2001	1
Rwanda	Thirteenth report	16 May 2000	2
	Fourteenth report	16 May 2002	1
Saint Lucia	Initial report	16 March 1991	7
	Second report	16 March 1993	7
	Third report	16 March 1995	6
	Fourth report	16 March 1997	5
	Fifth report	16 March 1999	3
	Sixth report	16 March 2001	2
Saint Vincent and the Grenadines	Second report	9 December 1984	14
	Third report	9 December 1986	11
	Fourth report	9 December 1988	9
	Fifth report	9 December 1990	8
	Sixth report	9 December 1992	6
	Seventh report	9 December 1994	6

State party	Type of report	Date on which the report was due	Number of reminders sent
Saint Vincent and the Grenadines (cont'd)	Eighth report	9 December 1996	5
	Ninth report	9 December 1998	3
	Tenth report	9 December 2000	2
Seychelles	Sixth report	6 April 1989	7
	Seventh report	6 April 1991	7
	Eighth report	6 April 1993	6
	Ninth report	6 April 1995	6
	Tenth report	6 April 1997	5
	Eleventh report	6 April 1999	3
	Twelfth report	6 April 2001	2
Sierra Leone	Fourth report	4 January 1976	30
	Fifth report	4 January 1978	26
	Sixth report	4 January 1980	24
	Seventh report	4 January 1982	20
	Eighth report	4 January 1984	16
	Ninth report	4 January 1986	12
	Tenth report	4 January 1988	9
	Eleventh report	4 January 1990	9
	Twelfth report	4 January 1992	8
	Thirteenth report	4 January 1994	7
	Fourteenth report	4 January 1996	6
	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Supplementary	31 March 1975	2
Slovakia	Fourth report	28 May 2000	2
	Fifth report	28 May 2002	1
Solomon Islands	Second report	16 April 1985	14
	Third report	16 April 1987	11
	Fourth report	16 April 1989	10
	Fifth report	16 April 1991	8
	Sixth report	16 April 1993	6
	Seventh report	16 April 1995	6
	Eighth report	16 April 1997	5
	Ninth report	16 April 1999	3
	Tenth report	16 April 2001	2
Somalia	Fifth report	25 September 1984	15
	Sixth report	25 September 1986	12
	Seventh report	25 September 1988	10
	Eighth report	25 September 1990	9

State party	Type of report	Date on which the report was due	Number of reminders sent
Somalia (cont'd)	Ninth report	25 September 1992	8
	Tenth report	25 September 1994	7
	Eleventh report	25 September 1996	6
	Twelfth report	25 September 1998	4
	Thirteenth report	25 September 2000	2
South Africa	Initial report	9 January 2000	2
	Second report	9 January 2002	1
Spain	Sixteenth report	4 January 2000	2
	Seventeenth report	4 January 2002	1
Suriname	Initial report	14 April 1985	14
	Second report	14 April 1987	11
	Third report	14 April 1989	9
	Fourth report	14 April 1991	8
	Fifth report	14 April 1993	6
	Sixth report	14 April 1995	6
	Seventh report	14 April 1997	5
	Eighth report	14 April 1999	3
	Ninth report	14 April 2001	2
Swaziland	Fifteenth report	7 May 1998	4
	Sixteenth report	7 May 2000	3
	Seventeenth report	7 May 2002	1
Sweden	Fifteenth report	5 January 2001	1
Syrian Arab Republic	Sixteenth report	21 May 2000	2
	Seventeenth report	21 May 2002	1
Tajikistan	Initial report	10 February 1996	6
	Second report	10 February 1998	4
	Third report	10 February 2000	3
	Fourth report	10 February 2002	1
The former Yugoslav Republic of Macedonia	Fourth report	17 September 1998	4
	Fifth report	17 September 2000	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Togo	Sixth report	1 October 1983	16
	Seventh report	1 October 1985	12
	Eighth report	1 October 1987	9
	Ninth report	1 October 1989	9
	Tenth report	1 October 1991	8
	Eleventh report	1 October 1993	7
	Twelfth report	1 October 1995	6
	Thirteenth report	1 October 1997	5
	Fourteenth report	1 October 1999	3
	Fifteenth report	1 October 2001	1
Tonga	Fifteenth report	17 March 2001	-
Turkmenistan	Initial report	29 October 1995	6
	Second report	29 October 1997	5
	Third report	29 October 1999	3
	Fourth report	29 October 2001	1
Uganda	Eleventh report	21 December 2001	-
United Arab Emirates	Twelfth report	20 July 1997	5
	Thirteenth report	20 July 1999	3
	Fourteenth report	20 July 2001	2
United Kingdom of Great Britain and Northern Ireland	Sixteenth report	6 April 2000	2
	Seventeenth report	6 April 2002	1
United Republic of Tanzania	Eighth report	26 November 1987	10
	Ninth report	26 November 1989	10
	Tenth report	26 November 1991	7
	Eleventh report	26 November 1993	6
	Twelfth report	26 November 1995	6
	Thirteenth report	26 November 1997	5
	Fourteenth report	26 November 1999	3
	Fifteenth report	26 November 2001	1
Uruguay	Sixteenth report	4 January 2000	2
	Seventeenth report	4 January 2002	1
Uzbekistan	Third report	28 October 2000	2

State party	Type of report	Date on which the report was due	Number of reminders sent
Venezuela	Fourteenth report	4 January 1996	6
	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Yugoslavia[c]	Fifteenth report	4 January 1998	4
	Sixteenth report	4 January 2000	3
	Seventeenth report	4 January 2002	1
Zambia	Twelfth report	5 March 1995	6
	Thirteenth report	5 March 1997	5
	Fourteenth report	5 March 1999	3
	Fifteenth report	5 March 2001	2
Zimbabwe	Fifth report	12 June 2000	2
	Sixth report	12 June 2002	1

[a] For a report submitted in compliance with a special decision of the Committee taken at its forty-second session (1993), see CERD/C/247.

[b] For a report submitted in compliance with a special decision of the Committee taken at its forty-fourth session (1994), see CERD/C/282.

[c] For a report submitted in compliance with a special decision of the Committee taken at its fifty-third session (1998), see CERD/C/364. The former Yugoslavia ceased to be a member on 1 November 2000, following the admission of the Federal Republic of Yugoslavia pursuant to General Assembly resolution 55/12 of 12 November 2000. The Federal Republic of Yugoslavia deposited an instrument of succession on 12 March 2001.

C. Action taken by the Committee to ensure submission of reports by States parties

497. At its sixtieth and sixty-first sessions, the Committee reviewed the question of delays and non-submission of reports by States parties in accordance with their obligations under article 9 of the Convention.

498. At its forty-second session, the Committee, having emphasized that the delays in reporting by States parties hampered it in monitoring implementation of the Convention, decided that it would continue to proceed with the review of the implementation of the provisions of the Convention by the States parties whose reports were excessively overdue by five years or more. In accordance with a decision taken at its thirty-ninth session, the Committee agreed that this review would be based upon the last reports submitted by the State party concerned and their consideration by the Committee. At its forty-ninth session, the Committee further decided that

States parties whose initial reports were excessively overdue by five years or more would also be scheduled for a review of implementation of the provisions of the Convention. The Committee agreed that in the absence of an initial report, the Committee would consider all information submitted by the State party to other organs of the United Nations or, in the absence of such material, reports and information prepared by organs of the United Nations. In practice the Committee also considers relevant information from other sources including from non-governmental organizations, whether it is an initial or periodic report that is seriously overdue. The question of the extent to which conclusions communicated to the State party under the review procedure could be based upon that material remains a matter of ongoing discussion (CERD/C/SR.1463).

499. Following its fifty-ninth session, the Committee decided to schedule at its sixtieth session a review of the implementation of the provisions of the Convention in the following States parties whose periodic reports were seriously overdue: Albania, Botswana, Papua New Guinea, Saint Vincent and the Grenadines, Solomon Islands, Tunisia and Turkmenistan. In the cases of Botswana, Albania and Tunisia, the reviews were postponed at the request of the States parties which indicated their intention to submit the requested reports shortly. Reports were subsequently submitted by Botswana and Tunisia.

500. Following its sixtieth session, the Committee decided to schedule at its sixty-first session a review of the implementation of the provisions of the Convention in the following States parties whose initial and periodic reports were seriously overdue: Côte d'Ivoire, Ecuador, Fiji, Madagascar and Tajikistan. Côte d'Ivoire and Ecuador were withdrawn from the list prior to the sixty-first session following the submission of a report. Tajikistan and Madagascar were postponed to a subsequent session on the undertaking of the State party to submit the requested reports within a one-year period.

501. The Committee again requested the Secretary-General to continue sending reminders automatically to those States parties whose reports were overdue.

VIII. THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; FOLLOW-UP TO THE WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

502. The Committee considered the question of the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the Third Decade to Combat Racism and Racial Discrimination at its sixtieth and sixty-first sessions.

503. For the consideration of this item, the Committee had before it the following documents:

General

(a) General Assembly resolution 56/265 of 27 March 2002 on the Third Decade to Combat Racism and Racial Discrimination;

(b) General Assembly resolution 56/266 of 27 March 2002 on comprehensive implementation of and follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

(c) General Assembly resolution 56/267 of 27 March 2002 on measures to combat contemporary forms of racism and racial discrimination, xenophobia and related intolerance;

(d) General Assembly resolution 56/268 of 27 March 2002 on measures to be taken against political platforms and activities based on doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, including neo-Nazism;

(e) Commission on Human Rights resolution 2002/68 of 25 April 2002 on racism, racial discrimination, xenophobia and related intolerance;

(f) Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (A/CONF.189/12);

(g) Report of the Secretary-General on racism, racial discrimination, xenophobia and related intolerance submitted pursuant to Commission resolution 2001/5 (E/CN.4/2002/21);

(h) Report of the High Commissioner pursuant to General Assembly resolution 48/141: tolerance and pluralism as indivisible elements in the promotion and protection of human rights (E/CN.4/2002/18/Add.2);

(i) Report by Mr. Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, submitted pursuant to Commission resolution 2001/5 (E/CN.4/2002/24 and Add.1 and Add.1/Corr.1).

504. At its sixtieth session, the Committee discussed at length its contribution to the follow-up to the World Conference. On 16 March 2002, the Committee adopted a general recommendation on the follow-up to the World Conference (see chap. XI).

IX. OVERVIEW OF THE METHODS OF WORK OF THE COMMITTEE

505. An overview of the methods of work of the Committee was included in its report to the fifty-first session of the General Assembly.[6] It highlighted changes introduced in recent years and was designed to make the Committee's procedures more transparent and accessible to both States parties and the public.

506. The Committee reviewed several aspects of its working methods at its sixtieth and sixty-first sessions. It discussed its practices concerning the adoption of concluding observations in meetings that are open to the public. It reaffirmed by consensus its position that in the interest of transparency, the adoption of concluding observations in public meetings should continue, subject to immediate notification to States parties once the concluding observations in a given case are finalized, as is the current practice.

507. At its sixtieth session, the Committee decided to review its working methods at its sixty-first session and asked Mr. Valencia Rodríguez, convenor of an open-ended working group on this issue, to prepare and submit a working paper for consideration. The working paper submitted by Mr. Valencia Rodríguez was extensively discussed and revised by the Committee at its sixty-first session. It was decided that the discussion on working methods would be continued at the sixty-second session, to be held in March 2003, on the basis of the working paper revised by Mr. Valencia Rodríguez and distributed at the end of the sixty-first session.

X. THEMATIC DISCUSSION ON DESCENT-BASED DISCRIMINATION

508. In examining the periodic reports of States parties, the Committee has found that some forms of discrimination within the terms of article 1 of the Convention are common to several States and can usefully be examined from a more general perspective. In August 2000, the Committee had organized a thematic debate on the issue of discrimination against Roma, one example of descent-based discrimination. As a result, at its sixtieth session the Committee decided to hold at its August 2002 session a thematic discussion on that issue with a view to possible further action. In this connection, it requested information from States parties concerning persons belonging to groups distinguished on the ground of descent residing in their respective territories, their economic and social situation, and policies for eliminating racial discrimination against them.

509. This second thematic discussion to be organized by the Committee, was held during its 1531st meeting, on 9 August 2002; it was preceded by an informal meeting with concerned NGOs, Governments and other United Nations human rights mechanisms.

510. The Committee was able to draw upon extensive information from its own activities, including that contained in periodic reports submitted by States parties and its dialogues with State delegations. In addition, a number of States replied to the invitation extended by the Committee in May 2002 to submit additional information. Furthermore, the Committee had relevant information from other United Nations human rights mechanisms, including other treaty bodies and the Sub-Commission on the Promotion and Protection of Human Rights. NGOs representing the victims of descent-based discrimination and global human rights organizations also submitted information.

511. During the informal meeting, NGOs raised many issues of concern. In response to the invitation addressed to Governments and to the Sub-Commission, some government representatives and members of the Sub-Commission addressed the gathering.

512. A majority of the Committee members addressed the issues in the general debate which took place in the morning of 9 August 2002 (see CERD/C/SR.1531). The working group convened by Mr. Thornberry met twice for the elaboration of a draft general recommendation.

513. Based on the information submitted and collected for the thematic discussion, on the outcome of the general debate and on the draft prepared by the working group, the Committee, following extensive debate adopted, at its 1547th meeting, its general recommendation XXIX on descent-based discrimination (see chap. XI, sect. D).

XI. DECISIONS, STATEMENTS AND GENERAL RECOMMENDATIONS

514. The following decisions, statements and general recommendations were adopted by the Committee at its sixtieth and sixty-first session:

A. Decision 1 (60) on Papua New Guinea

1. At its 1506th meeting, on 11 March 2002 (see CERD/C/SR.1506), the Committee reviewed again the implementation of the Convention by Papua New Guinea under the early warning procedure.

2. Despite the Committee's repeated requests, Papua New Guinea has not resumed its dialogue with the Committee. It has submitted neither its periodic report nor the additional information requested about the situation in Bougainville. In fact, the dialogue between Papua New Guinea and the Committee has been interrupted since 1984. The State party has not fulfilled its obligation under article 9, paragraph 1, of the Convention.

3. The Committee reiterates its decisions 2 (52) of 19 March 1998, 4 (51) of 21 August 1997, 3 (47) of 16 August 1995 and 8 (46) of 16 March 1995 on Papua New Guinea, in which it requested the State party to comply with its obligation under article 9, paragraph 1, of the Convention, mainly to provide information on the situation in Bougainville.

4. The Committee urges the State party to submit its report under article 9, paragraph 1, of the Convention, as well as to supply information specifically on the present situation in Bougainville. In particular, the report should provide information on the demographic composition of the population, as well as the economic, social and cultural situation of the various ethnic groups. In this connection, the Committee wishes again to draw the State party's attention to the possibility of availing itself of the technical assistance offered under the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights.

5. The Committee draws the attention of the State party to the provisions of the Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, according to which the International Convention on the Elimination of All Forms of Racial Discrimination is the principal international instrument for the elimination of racism, racial discrimination, xenophobia and related intolerance and States are urged to cooperate with the Committee in order to promote the effective implementation of the Convention.

6. The Committee hopes that the State party will also consider withdrawing its reservation to article 4 of the Convention.

7. The Committee decides that, in the absence of any indication on the part of the State party that it will comply with its obligation under article 9, paragraph 1, of the Convention, it will consider the implementation of the Convention in Papua New Guinea at its sixty-second session, in March 2003.

B. Decision 2 (60) on organizational matters

The Committee on the Elimination of Racial Discrimination,

Recalling that paragraph 4 of article 10 of the International Convention on the Elimination of All Forms of Racial Discrimination stipulates that the sessions of the Committee shall normally be held at United Nations Headquarters,

Reaffirming its decisions 8 (53), 4 (55) and 1 (56) in which it stated, in particular, that some States parties, especially developing countries in Africa, Asia and Latin America, maintain diplomatic missions in New York but not at Geneva, and that some of these States encounter financial and other difficulties in attending the meetings of the Committee when their reports are to be examined at Geneva,

1. Decides to request that one of its sessions in 2003 or 2004 be held at United Nations Headquarters in order to examine with priority the reports of the States parties which encounter difficulties in attending meetings of the Committee in Geneva;

2. Requests the General Assembly to take appropriate measures to implement the present decision, taking into account the explanatory note below.*

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* Explanatory note

The Committee's decision 2 (60) concerning the request that one of its sessions in 2003 or 2004 be held at United Nations Headquarters is based on the following reasoning:

(a) The International Convention on the Elimination of All Forms of Racial Discrimination, to which 162 States have so far become parties, provides in its article 10, paragraph 4, that the Committee shall normally meet at Headquarters. Rule 5 of the Committee's rules of procedure repeats this provision, adding that "another place for a session may be designated by the Committee in consultation with the Secretary-General, taking into account the relevant rules of the United Nations on the subject". Furthermore, rule 2 of the rules of procedure stipulates that regular sessions of the Committee shall be decided by the Committee in consultation with the Secretary-General, taking into account the calendar of conferences as approved by the General Assembly;

(b) It is with these (mandatory) provisions in mind that the Committee from its inception up to 1983 (first to twenty-eighth sessions met at Headquarters, with a few agreed exceptions when sessions were held in Geneva (one each in 1974, 1976, 1980, 1981, 1982), one in Vienna (1977) and one in Paris (1979)). Between 1984 and 1986 the Committee met in New York and Geneva on an alternating basis (twenty-ninth to thirty-third sessions). Since 1987 the Committee has held all its session (thirty-fourth to sixty-first) in Geneva;

(c) As far as the financial implications for the United Nations budget of the sessions of the Committee are concerned, reference is made to General Assembly resolution 47/111 of 16 December 1992, which was adopted as a consequence of amendments to article 8 of the Convention (which are not yet in force). Until the entry into force of those amendments the

C. Statement on racial discrimination and measures to combat terrorism

Following the events of 11 September, the High Commissioner for Human Rights addressed a letter to the Chairman of the Committee on 11 October 2001, soliciting the support of the Committee so as to guarantee that the right balance is struck between security and human rights concern when combating the scourge of terrorism. The Committee responded through the adoption of the following statement:

Statement on racial discrimination and measures to combat terrorism

The Committee on the Elimination of Racial Discrimination,

1. Condemns unequivocally the terrorist attacks on the United States of America of 11 September 2001;

General Assembly "requested the Secretary-General to provide for the financing of the [Committee] from the regular budget and to take the necessary measures to ensure that the [Committee met] as scheduled". The question of the venue was not addressed in the resolution. Taking into account article 10, paragraph 4, of the Convention there is, therefore, a sufficient, if not overriding, legal basis for the Committee's request to meet in New York;

(d) The Committee is supposed to enter into a frank dialogue with each of the States parties in respect of the implementation of the Convention. Accordingly, when the Committee proceeds with the "consideration [of a State party] report on the legislative, judicial, administrative or other measures which [have been] adopted and which give effect to the provisions of the Convention" (art. 9, para. 1, of the Convention), it is important that the State party concerned be represented at the discussion by a well-informed delegation, which ought to be in a position not only to introduce and explain the State party's written report, but also to give oral answers to the Committee's questions;

(e) There are, however, a number of States parties which do not have a diplomatic mission in Geneva. In fact, of the 162 States which were parties to the Convention as of August 2002, only 133 are represented in Geneva. In other words, 29 States - which do maintain permanent missions in New York - do not have similar representation in Geneva. For those States, the direct dialogue with the Committee would be greatly facilitated if the relevant meetings were to take place in New York. Furthermore, in the interest of economy, and with a view to intensifying its dialogue, which can only take place if the delegation of the State party concerned is accompanied by experts from the capital, the Committee would attempt to consider at a meeting in New York mainly reports from Latin American and Caribbean countries, thus reducing considerably the financial implications for those countries as regards their participation in the relevant discussions of the Committee;

(f) Finally, a meeting in New York should result in giving the Committee - which was the first of the treaty-based bodies to be established and which is the guardian of the earliest human rights treaty drafted and adopted under the auspices of the United Nations - a higher profile and make its action better known.

2. Affirms that all acts of terrorism are contrary to the Charter of the United Nations, the Universal Declaration of Human Rights and other human rights instruments referred to in the Preamble to the International Convention on the Elimination of All Forms of Racial Discrimination;

3. Emphasizes that measures to combat terrorism must be in accordance with the Charter of the United Nations and that they are only legitimate if they respect the fundamental principles and the universally recognized standards of international law, in particular, international human rights law and international humanitarian law;

4. Recalls that the prohibition of racial discrimination is a peremptory norm of international law from which no derogation is permitted;

5. Demands that States and international organizations ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin;

6. Insists that the principle of non-discrimination must be observed in all matters, in particular in those concerning liberty, security and dignity of the person, equality before the courts and due process of law, as well as international cooperation in judicial and police matters in these fields;

7. Intends, in this context, to monitor, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination, the potentially discriminatory effects of legislation and practices in the framework of the fight against terrorism.

1503rd meeting
8 March 2002

D. Statement by the Committee to the World Summit on Sustainable Development

At its sixty-first session, the Committee adopted and decided to transmit the following statement to the participants at the World Summit on Sustainable Development:

"The Committee on the Elimination of Racial Discrimination,

"Welcoming the opportunity offered to States by the Johannesburg World Summit on Sustainable Development to accelerate their efforts in implementing the Stockholm and Rio Principles and the Agenda 21 Programme of Action for achieving the Millennium Development Goals,

"Taking into consideration that Agenda 21, adopted by the United Nations Convention on Environment and Development held in Rio de Janeiro in 1992, is a document of paramount importance, not only for the preservation of the Earth's environment and the promotion of sustainable development, but also, and above all, a fundamental instrument for the worldwide observance of human rights,

"Taking also into consideration that the Durban Declaration and Programme of Action of 2001 acknowledges that poverty, underdevelopment, marginalization, social exclusion and economic disparities are closely associated with racism, racial discrimination, xenophobia and related intolerance and contribute to the persistence of racial attitude and practices which, in turn, generate more poverty,

"Affirming that policies, practices and the lack of enforcement of certain laws perpetuate racial discrimination, 'environmental racism' and other forms of oppression which violate the rights to freedom, equality and adequate access to basic needs such as clean water, food, shelter, energy, health and social care,

"Noting that some negative aspects of globalization, including unbalanced economic growth, unfair terms of trade, unabated production and consumption, land and water pollution, displacements of people, the hoarding of natural resources and mismanagement of external debt, all undermine efforts to combat racial discrimination at national and international levels,

"Reaffirming that the right to development, peace, stability and security, as well as the eradication of poverty and social exclusion are fundamental prerequisites for human development, in particular for the least developed countries,

"Reaffirming also that democratization and good governance are substantial prerequisites for human development,

"Stressing that in its review of States parties reports the Committee has observed with great concern the continuing social and economic deprivation of indigenous societies, migrants and migrant workers and refugees, as well as of national minorities and other groups of people whose human rights are violated on the basis of their race, colour, descent and ethnic origin,

"1. Calls upon all States to respect and protect all human rights and to fulfil commitments, including recognizing ethnic and cultural diversity as essential preconditions for a meaningful dialogue of civilizations, sustainable development and a just and equitable social order;

"2. Encourages the Summit to ensure the inclusion of human rights and the prohibition of racial discrimination in its final documents;

"3. Welcomes the opportunity to cooperate with States parties and other United Nations bodies in upholding those human rights norms and standards relevant to sustainable development and set forth in the International Convention on the Elimination of All Forms of Racial Discrimination and related human rights instruments."

E. General recommendation XXVIII on the follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

The Committee on the Elimination of Racial Discrimination,

Welcoming the adoption of the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the provisions of General Assembly resolution 56/266 which endorse or are designed to ensure the follow-up of those instruments,

Welcoming the fact that the instruments adopted at Durban strongly reaffirm all the fundamental values and standards of the International Convention on the Elimination of All Forms of Racial Discrimination,

Recalling that the Durban Declaration and Programme of Action refer to the International Convention on the Elimination of All Forms of Racial Discrimination as the principal instrument to combat racism, racial discrimination, xenophobia and related intolerance,

Noting in particular the affirmation in the Durban Declaration that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination are of paramount importance for promoting equality and non-discrimination in the world,

Expressing its satisfaction at the recognition of the role and contribution of the Committee to the struggle against racial discrimination,

Conscious of its own responsibilities in the follow-up to the World Conference and of the need to strengthen its capacity to undertake these responsibilities,

Stressing the vital role of non-governmental organizations in the struggle against racial discrimination and welcoming their contribution during the World Conference,

Taking note of the recognition by the World Conference of the important role that national human rights institutions play in combating racism and racial discrimination, and of the need to strengthen such institutions and provide them with greater resources,

1. Recommends to States:

I. Measures to strengthen the implementation of the Convention

(a) If they have not yet done so, to accede to the International Convention on the Elimination of All Forms of Racial Discrimination with a view to universal ratification by the year 2005;

(b) If they have not yet done so, to consider making the optional declaration envisaged under article 14 of the Convention;

(c) To comply with their reporting obligations under the Convention by presenting reports in a timely manner in conformity with the relevant guidelines;

(d) To consider withdrawing their reservations to the Convention;

(e) To make increased efforts to inform the public of the existence of the complaints mechanism under article 14 of the Convention;

(f) To take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention;

(g) To include in their periodic reports information on action plans or other measures they have taken to implement the Durban Declaration and Programme of Action at the national level;

(h) To disseminate the Durban Declaration and Programme of Action in an appropriate manner and provide the Committee with information on the efforts in this respect under the section of their periodic reports concerning article 7 of the Convention;

II. Measures to strengthen the functioning of the Committee

(i) To consider setting up appropriate national monitoring and evaluation mechanisms to ensure that all appropriate steps are taken to follow-up the concluding observations and general recommendations of the Committee;

(j) To include in their periodic reports to the Committee appropriate information on the follow-up to such concluding observations and recommendations;

(k) To ratify the amendment to article 8, paragraph 6, of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111 of 15 December 1992;

(l) To continue cooperating with the Committee with a view to promoting the effective implementation of the Convention;

2. Also recommends:

(a) That national human rights institutions assist their respective States to comply with their reporting obligations and closely monitor the follow-up to the concluding observations and recommendations of the Committee;

(b) That non-governmental organizations continue to provide the Committee in good time with relevant information in order to enhance its cooperation with them;

(c) That the Office of the High Commissioner for Human Rights continue its efforts to increase awareness of the work of the Committee;

(d) That the competent United Nations bodies provide the Committee with adequate resources to enable it to discharge its mandate fully;

3. Expresses its willingness:

(a) To cooperate fully with all relevant institutions of the United Nations system, in particular the Office of the High Commissioner for Human Rights, in following up the Durban Declaration and Programme of Action;

(b) To cooperate with the five independent eminent experts to be appointed by the Secretary-General to facilitate the implementation of the recommendations of the Durban Declaration and Programme of Action;

(c) To coordinate its activities with the other human rights treaty bodies with a view to achieving a more effective follow-up of the Durban Declaration and Programme of Action;

(d) To take into consideration all aspects of the Durban Declaration and Programme of Action concerning the fulfilment of its mandate.

1517th meeting
19 March 2002

F. General recommendation XXIX on article 1, paragraph 1, of the Convention (Descent)

The Committee on the Elimination of Racial Discrimination,

Recalling the terms of the Universal Declaration of Human Rights according to which all human beings are born free and equal in dignity and rights and are entitled to the rights and freedoms therein without distinction of any kind, including race, colour, sex, language, religion, social origin, birth or other status,

Recalling also the terms of the Vienna Declaration and Programme of Action of the World Conference on Human Rights according to which it is the duty of States, regardless of political, economic and cultural system, to promote and protect all human rights and fundamental freedoms,

Reaffirming its general recommendation XXVIII in which the Committee expresses wholehearted support for the Durban Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

Reaffirming also the condemnation of discrimination against persons of Asian and African descent and indigenous and other forms of descent in the Durban Declaration and Programme of Action,

Basing its action on the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination which seeks to eliminate discrimination based on race, colour, descent, or national or ethnic origin,

Confirming the consistent view of the Committee that the term "descent" in article 1, paragraph 1, the Convention does not solely refer to "race" and has a meaning and application which complement the other prohibited grounds of discrimination,

Strongly reaffirming that discrimination based on "descent" includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights,

Noting that the existence of such discrimination has become evident from the Committee's examination of reports of a number of States parties to the Convention,

Having organized a thematic discussion on descent-based discrimination and received the contributions of members of the Committee, as well as contributions from some Governments and members of other United Nations bodies, notably experts of the Sub-Commission for the Promotion and Protection of Human Rights,

Having received contributions from a great number of concerned non-governmental organizations and individuals, orally and through written information, providing the Committee with further evidence of the extent and persistence of descent-based discrimination in different regions of the world,

Concluding that fresh efforts need to be made as well as existing efforts intensified at the level of domestic law and practice to eliminate the scourge of descent-based discrimination and empower communities affected by it,

Commending the efforts of those States that have taken measures to eliminate descent-based discrimination and remedy its consequences,

Strongly encouraging those affected States that have yet to recognize and address this phenomenon to take steps to do so,

Recalling the positive spirit in which the dialogues between the Committee and Governments have been conducted on the question of descent-based discrimination and anticipating further such constructive dialogues,

Attaching the highest importance to its ongoing work in combating all forms of descent-based discrimination,

Strongly condemning descent-based discrimination, such as discrimination on the basis of caste and analogous systems of inherited status, as a violation of the Convention,

Recommends that the States parties, as appropriate for their particular circumstances, adopt some or all of the following measures:

1. Measures of a general nature

(a) Steps to identify those descent-based communities under their jurisdiction who suffer from discrimination, especially on the basis of caste and analogous systems of inherited status, and whose existence may be recognized on the basis of various factors including some or all of the following: inability or restricted ability to alter inherited status; socially enforced restrictions on marriage outside the community; private and public segregation, including in housing and education, access to public spaces, places of worship and public sources of food and water; limitation of freedom to renounce inherited occupations or degrading or hazardous work; subjection to debt bondage; subjection to dehumanizing discourses referring to pollution or untouchability; and generalized lack of respect for their human dignity and equality;

(b) Consider the incorporation of an explicit prohibition of descent-based discrimination in the national constitution;

(c) Review and enact or amend legislation in order to outlaw all forms of discrimination based on descent in accordance with the Convention;

(d) Resolutely implement legislation and other measures already in force;

(e) Formulate and put into action a comprehensive national strategy with the participation of members of affected communities, including special measures in accordance with articles 1 and 2 of the Convention, in order to eliminate discrimination against members of descent-based groups;

(f) Adopt special measures in favour of descent-based groups and communities in order to ensure their enjoyment of human rights and fundamental freedoms, in particular concerning access to public functions, employment and education;

(g) Establish statutory mechanisms, through the strengthening of existing institutions or the creation of specialized institutions, to promote respect for the equal human rights of members of descent-based communities;

(h) Educate the general public on the importance of affirmative action programmes to address the situation of victims of descent-based discrimination;

(i) Encourage dialogue between members of descent-based communities and members of other social groups;

(j) Conduct periodic surveys on the reality of descent-based discrimination and provide disaggregated information in their reports to the Committee on the geographical distribution and economic and social conditions of descent-based communities, including a gender perspective;

2. Multiple discrimination against women members of descent-based communities

(k) Take into account, in all programmes and projects planned and implemented and in measures adopted, the situation of women members of the communities, as victims of multiple discrimination, sexual exploitation and forced prostitution;

(l) Take all measures necessary in order to eliminate multiple discrimination including descent-based discrimination against women, particularly in the areas of personal security, employment and education;

(m) Provide disaggregated data for the situation of women affected by descent-based discrimination;

3. Segregation

(n) Monitor and report on trends which give rise to the segregation of descent-based communities and work for the eradication of the negative consequences resulting from such segregation;

(o) Undertake to prevent, prohibit and eliminate practices of segregation directed against members of descent-based communities including in housing, education and employment;

(p) Secure for everyone the right of access on an equal and non-discriminatory basis to any place or service intended for use by the general public;

(q) Take steps to promote mixed communities in which members of affected communities are integrated with other elements of society and ensure that services to such settlements are accessible on an equal basis for all;

4. Dissemination of hate speech including through the mass media and the Internet

(r) Take measures against any dissemination of ideas of caste superiority and inferiority or which attempt to justify violence, hatred or discrimination against descent-based communities;

(s) Take strict measures against any incitement to discrimination or violence against the communities, including through the Internet;

(t) Take measures to raise awareness among media professionals of the nature and incidence of descent-based discrimination;

5. Administration of justice

(u) Take the necessary steps to secure equal access to the justice system for all members of descent-based communities, including by providing legal aid, facilitating of group claims and encouraging non-governmental organizations to defend community rights;

(v) Ensure, where relevant, that judicial decisions and official actions take the prohibition of descent-based discrimination fully into account;

(w) Ensure the prosecution of persons who commit crimes against members of descent-based communities and the provision of adequate compensation for the victims of such crimes;

(x) Encourage the recruitment of members of descent-based communities into the police and other law enforcement agencies;

(y) Organize training programmes for public officials and law enforcement agencies with a view to preventing injustices based on prejudice against descent-based communities;

(z) Encourage and facilitate constructive dialogue between the police and other law enforcement agencies and members of the communities;

6. Civil and political rights

(aa) Ensure that authorities at all levels in the country concerned involve members of descent-based communities in decisions which affect them;

(bb) Take special and concrete measures to guarantee to members of descent-based communities the right to participate in elections, to vote and stand for election on the basis of equal and universal suffrage, and to have due representation in Government and legislative bodies;

(cc) Promote awareness among members of the communities of the importance of their active participation in public and political life, and eliminate obstacles to such participation;

(dd) Organize training programmes to improve the political policy-making and public administration skills of public officials and political representatives who belong to descent-based communities;

(ee) Take steps to identify areas prone to descent-based violence in order to prevent the recurrence of such violence;

(ff) Take resolute measures to secure rights of marriage for members of descent-based communities who wish to marry outside the community;

7. Economic and social rights

(gg) Elaborate, adopt and implement plans and programmes of economic and social development on an equal and non-discriminatory basis;

(hh) Take substantial and effective measures to eradicate poverty among descent-based communities and combat their social exclusion or marginalization;

(ii) Work with intergovernmental organizations, including international financial institutions, to ensure that development or assistance projects which they support take into account the economic and social situation of members of descent-based communities;

(jj) Take special measures to promote the employment of members of affected communities in the public and private sectors;

(kk) Develop or refine legislation and practice specifically prohibiting all discriminatory practices based on descent in employment and the labour market;

(ll) Take measures against public bodies, private companies and other associations that investigate the descent background of applicants for employment;

(mm) Take measures against discriminatory practices of local authorities or private owners with regard to residence and access to adequate housing for members of affected communities;

(nn) Ensure equal access to health care and social security services for members of descent-based communities;

(oo) Involve affected communities in designing and implementing health programmes and projects;

(pp) Take measures to address the special vulnerability of children of descent-based communities to exploitative child labour;

(qq) Take resolute measures to eliminate debt bondage and degrading conditions of labour associated with descent-based discrimination;

8. Right to education

(rr) Ensure that public and private education systems include children of all communities and do not exclude any children on the basis of descent;

(ss) Reduce school drop-out rates for children of all communities, in particular for children of affected communities, with special attention to the situation of girls;

(tt) Combat discrimination by public or private bodies and any harassment of students who are members of descent-based communities;

(uu) Take necessary measures in cooperation with civil society to educate the population as a whole in a spirit of non-discrimination and respect for the communities subject to descent-based discrimination;

(vv) Review all language in textbooks which conveys stereotyped or demeaning images, references, names or opinions concerning descent-based communities and replace it by images, references, names and opinions which convey the message of the inherent dignity of all human beings and their equality of human rights.

Notes

[1] Official Records of the General Assembly, Twenty-seventh Session, Supplement No. 18 (A/8718), chap. IX, sect. B.

[2] See chapter XI, section C, for the text of this general recommendation as adopted by the Committee on 19 March 2002.

[3] See chapter XI, section B, for the text of this statement as adopted by the Committee on 8 March 2002.

[4] Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18 (A/48/18), annex III, sect. A.

[5] For the text of this decision, see chapter XI, section A.

[6] Official Reports of the General Assembly, Fifty-first Session, Supplement No. 18 (A/51/18), paras. 587-627.

ANNEX I

STATUS OF THE CONVENTION

A. States parties to the International Convention on the Elimination of All Forms of Racial Discrimination (162) as at 23 August 2002*

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Afghanistan	6 July 1983[a]	5 August 1983
Albania	11 May 1994[a]	10 June 1994
Algeria	14 February 1972	15 March 1972
Antigua and Barbuda	25 October 1988[a]	24 November 1988
Argentina	2 October 1968	4 January 1969
Armenia	23 June 1993[a]	23 July 1993
Australia	30 September 1975	30 October 1975
Austria	9 May 1972	8 June 1972
Azerbaijan	16 August 1996[a]	15 September 1996
Bahamas	5 August 1975[b]	4 September 1975
Bahrain	27 March 1990[a]	26 April 1990
Bangladesh	11 June 1979[a]	11 July 1979
Barbados	8 November 1972[a]	8 December 1972
Belarus	8 April 1969	8 May 1969
Belgium	7 August 1975	6 September 1975
Belize	14 November 2001	13 December 2001
Benin	30 November 2001	29 December 2001
Bolivia	22 September 1970	22 October 1970
Bosnia and Herzegovina	16 July 1993[b]	16 July 1993
Botswana	20 February 1974[a]	22 March 1974
Brazil	27 March 1968	4 January 1969
Bulgaria	8 August 1966	4 January 1969
Burkina Faso	18 July 1974[a]	17 August 1974
Burundi	27 October 1977	26 November 1977
Cambodia	28 November 1983	28 December 1983

* The following States have signed but not ratified the Convention: Andorra, Bhutan, Comoros, Grenada, Guinea-Bissau, Nauru, Paraguay, Sao Tome and Principe and Turkey.

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Cameroon	24 June 1971	24 July 1971
Canada	14 October 1970	13 November 1970
Cape Verde	3 October 1979[a]	2 November 1979
Central African Republic	16 March 1971	15 April 1971
Chad	17 August 1977[a]	16 September 1977
Chile	20 October 1971	19 November 1971
China	29 December 1981[a]	28 January 1982
Colombia	2 September 1981	2 October 1981
Congo	11 July 1988[a]	10 August 1988
Costa Rica	16 January 1967	4 January 1969
Côte d'Ivoire	4 January 1973[a]	3 February 1973
Croatia	12 October 1992[b]	8 October 1991
Cuba	15 February 1972	16 March 1972
Cyprus	21 April 1967	4 January 1969
Czech Republic	22 February 1993[b]	1 January 1993
Democratic Republic of the Congo	21 April 1976[a]	21 May 1976
Denmark	9 December 1971	8 January 1972
Dominican Republic	25 May 1983[a]	24 June 1983
Ecuador	22 September 1966[a]	4 January 1969
Egypt	1 May 1967	4 January 1969
El Salvador	30 November 1979[a]	30 December 1979
Eritrea	21 October 2001[a]	29 August 2001
Estonia	21 October 1991[a]	20 November 1991
Ethiopia	23 June 1976[a]	23 July 1976
Fiji	11 January 1973[b]	10 February 1973
Finland	14 July 1970	13 August 1970
France	28 July 1971[a]	27 August 1971
Gabon	29 February 1980	30 March 1980
Gambia	29 December 1978[a]	28 January 1979
Georgia	2 June 1999[a]	2 July 1999
Germany	16 May 1969	15 June 1969
Ghana	8 September 1966	4 January 1969
Greece	18 June 1970	18 July 1970
Guatemala	18 January 1983	17 February 1983
Guinea	14 March 1977	13 April 1977

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Guyana	15 February 1977	17 March 1977
Haiti	19 December 1972	18 January 1973
Holy See	1 May 1969	31 May 1969
Hungary	1 May 1967	4 January 1969
Iceland	13 March 1967	4 January 1969
India	3 December 1968	4 January 1969
Indonesia	25 June 1999[a]	25 July 1999
Iran (Islamic Republic of)	29 August 1968	4 January 1969
Iraq	14 January 1970	13 February 1970
Ireland	29 December 2000	28 January 2001
Israel	3 January 1979	2 February 1979
Italy	5 January 1976	4 February 1976
Jamaica	4 June 1971	4 July 1971
Japan	15 December 1995	14 January 1996
Jordan	30 May 1974[a]	29 June 1974
Kazakhstan	26 August 1998[a]	25 September 1998
Kenya	13 September 2001[a]	12 October 2001
Kuwait	15 October 1968[a]	4 January 1969
Kyrgyzstan	5 September 1997	5 October 1997
Lao People's Democratic Republic	22 February 1974[a]	24 March 1974
Latvia	14 April 1992[a]	14 May 1992
Lebanon	12 November 1971[a]	12 December 1971
Lesotho	4 November 1971[a]	4 December 1971
Liberia	5 November 1976[a]	5 December 1976
Libyan Arab Jamahiriya	3 July 1968[a]	4 January 1969
Liechtenstein	1 March 2000[a]	31 March 2000
Lithuania	10 December 1998	9 January 1999
Luxembourg	1 May 1978	31 May 1978
Madagascar	7 February 1969	9 March 1969
Malawi	11 June 1996[a]	11 July 1996
Maldives	24 April 1984[a]	24 May 1984
Mali	16 July 1974[a]	15 August 1974
Malta	27 May 1971	26 June 1971
Mauritania	13 December 1988	12 January 1989
Mauritius	30 May 1972[a]	29 June 1972

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Mexico	20 February 1975	22 March 1975
Monaco	27 September 1995	27 October 1995
Mongolia	6 August 1969	5 September 1969
Morocco	18 December 1970	17 January 1971
Mozambique	18 April 1983[a]	18 May 1983
Namibia	11 November 1982[a]	11 December 1982
Nepal	30 January 1971[a]	1 March 1971
Netherlands	10 December 1971	9 January 1972
New Zealand	22 November 1972	22 December 1972
Nicaragua	15 February 1978[a]	17 March 1978
Niger	27 April 1967	4 January 1969
Nigeria	16 October 1967[a]	4 January 1969
Norway	6 August 1970	5 September 1970
Pakistan	21 September 1966	4 January 1969
Panama	16 August 1967	4 January 1969
Papua New Guinea	27 January 1982[a]	26 February 1982
Peru	29 September 1971	29 October 1971
Philippines	15 September 1967	4 January 1969
Poland	5 December 1968	4 January 1969
Portugal	24 August 1982[a]	23 September 1982
Qatar	22 July 1976[a]	21 August 1976
Republic of Korea	5 December 1978[a]	4 January 1979
Republic of Moldova	26 January 1993[a]	25 February 1993
Romania	15 September 1970[a]	15 October 1970
Russian Federation	4 February 1969	6 March 1969
Rwanda	16 April 1975[a]	16 May 1975
Saint Lucia	14 February 1990[b]	16 March 1990
Saint Vincent and the Grenadines	9 November 1981[a]	9 December 1981
San Marino	12 March 2002	10 April 2002
Saudi Arabia	22 September 1997	22 October 1997
Senegal	19 April 1972	19 May 1972
Seychelles	7 March 1978[a]	6 April 1978
Sierra Leone	2 August 1967	4 January 1969
Slovakia	28 May 1993[b]	28 May 1993
Slovenia	6 July 1992[b]	6 July 1992

State party	Date of receipt of the instrument of ratification or accession	Entry into force
Solomon Islands	17 March 1982[b]	16 April 1982
Somalia	26 August 1975	25 September 1975
South Africa	10 December 1998	9 January 1999
Spain	13 September 1968[a]	4 January 1969
Sri Lanka	18 February 1982[a]	20 March 1982
Sudan	21 March 1977[a]	20 April 1977
Suriname	15 March 1984[b]	14 April 1984
Swaziland	7 April 1969[a]	7 May 1969
Sweden	6 December 1971	5 January 1972
Switzerland	29 November 1994[a]	29 December 1994
Syrian Arab Republic	21 April 1969[a]	21 May 1969
Tajikistan	11 January 1995[a]	10 February 1995
The former Yugoslav Republic of Macedonia	18 January 1994[b]	17 September 1991
Togo	1 September 1972[a]	! October 1972
Tonga	16 February 1972[a]	17 March 1972
Trinidad and Tobago	4 October 1973	3 November 1973
Tunisia	13 January 1967	4 January 1969
Turkmenistan	29 September 1994[a]	29 October 1994
Uganda	21 November 1980[a]	21 December 1980
Ukraine	7 March 1969	6 April 1969
United Arab Emirates	20 June 1974[a]	20 July 1974
United Kingdom of Great Britain and Northern Ireland	7 March 1969	6 April 1969
United Republic of Tanzania	27 October 1972[a]	26 November 1972
United States of America	21 October 1994	20 November 1994
Uruguay	30 August 1968	4 January 1969
Uzbekistan	28 September 1995[a]	28 October 1995
Venezuela	10 October 1967	4 January 1969
Viet Nam	9 June 1982[a]	9 July 1982
Yemen	18 October 1972[a]	17 November 1972
Yugoslavia	12 March 2001[b]	12 March 2001
Zambia	4 February 1972	5 March 1972
Zimbabwe	13 May 1991[a]	12 June 1991

B. States parties that have made the declaration under article 14, paragraph 1, of the Convention (41) as at 23 August 2002

State party	Date of deposit of the declaration	Effective date
Algeria	12 September 1989	12 September 1989
Australia	28 January 1993	28 January 1993
Austria	20 February 2002	20 February 2002
Azerbaijan	27 September 2001	27 September 2001
Belgium	10 October 2000	10 October 2000
Brazil	17 June 2002	17 June 2002
Bulgaria	12 May 1993	12 May 1993
Chile	18 May 1994	18 May 1994
Costa Rica	8 January 1974	8 January 1974
Cyprus	30 December 1993	30 December 1993
Czech Republic	11 October 2000	11 October 2000
Denmark	11 October 1985	11 October 1985
Ecuador	18 March 1977	18 March 1977
Finland	16 November 1994	16 November 1994
France	16 August 1982	16 August 1982
Germany	30 August 2001	30 August 2001
Hungary	13 September 1990	13 September 1990
Iceland	10 August 1981	10 August 1981
Ireland	7 March 1966	7 March 1966
Italy	5 May 1978	5 May 1978
Luxembourg	22 July 1996	22 July 1996
Malta	16 December 1998	16 December 1998
Mexico	15 March 2002	15 March 2002
Monaco	6 November 2001	6 November 2001
Netherlands	10 December 1971	9 January 1972
Norway	23 January 1976	23 January 1976
Peru	27 November 1984	27 November 1984
Poland	1 December 1999	1 December 1999
Portugal	2 March 2000	2 March 2000
Republic of Korea	5 March 1997	5 March 1997
Russian Federation	1 October 1991	1 October 1991
Senegal	3 December 1982	3 December 1982
Slovakia	17 March 1995	17 March 1995
Slovenia	10 November 2001	10 November 2001
South Africa	9 January 1999	9 January 1999

State party	Date of deposit of the declaration	Effective date
Spain	13 January 1998	13 January 1998
Sweden	6 December 1971	5 January 1972
The former Yugoslav Republic of Macedonia	22 December 1999	22 December 1999
Ukraine	28 July 1992	28 July 1992
Uruguay	11 September 1972	11 September 1972
Yugoslavia	27 June 2001	27 June 2001

C. States parties that have accepted the amendments to the Convention adopted at the fourteenth meeting of States parties* (36) as at 23 August 2002

State party	Date acceptance received
Australia	15 October 1993
Bahamas	31 March 1994
Bahrain	29 June 2000
Bulgaria	2 March 1995
Burkina Faso	9 August 1993
Canada	8 February 1995
China	10 July 2002
Colombia	5 October 1999
Costa Rica	13 December 2000
Cuba	21 November 1996
Cyprus	28 September 1998
Czech Republic	6 August 2002
Denmark	3 September 1993
Finland	9 February 1994
France	1 September 1994
Germany	8 October 1996
Guinea	31 May 2000
Holy See	14 March 2002
Iceland	14 March 2001
Iraq	25 May 2001

* For the amendments to enter into force, acceptance must be received from two thirds of the States parties to the Convention.

State party	Date acceptance received
Ireland	29 December 2000
Liechtenstein	28 April 2000
Mexico	16 September 1996
Netherlands (for the Kingdom in Europe and the Netherlands Antilles and Aruba)	24 January 1995
New Zealand	8 October 1993
Norway	6 October 1993
Poland	23 August 2002
Republic of Korea	30 November 1993
Seychelles	23 July 1993
Sweden	14 May 1993
Switzerland	16 December 1996
Syrian Arab Republic	25 February 1998
Trinidad and Tobago	23 August 1993
Ukraine	17 June 1994
United Kingdom of Great Britain and Northern Ireland	7 February 1994
Zimbabwe	10 April 1997

[a] Accession.

[b] Date of receipt of notification of succession.

ANNEX II

AGENDAS OF THE SIXTIETH AND SIXTY-FIRST SESSIONS

A. Sixtieth session (4-22 March 2002)

1. Solemn declaration by the newly elected members of the Committee under rule 14 of the rules of procedure.

2. Election of officers, according to rule 15 of the rules of procedure.

3. Adoption of the agenda.

4. Organizational matters and methods of work.

5. Prevention of racial discrimination, including early warning measures and urgent action procedures.

6. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

7. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

8. Follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; Third Decade to Combat Racism and Racial Discrimination (1993-2003).

9. Consideration of communications under article 14 of the Convention.

10. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

11. Third Decade to Combat Racism and Racial Discrimination; Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

B. Sixty-first session (5-23 August 2002)

1. Approval by the Committee of the experts appointed by one State party to fill the vacancy resulting from the resignation of one member of the Committee.

2. Adoption of the agenda.

3. Organizational and other matters and methods of work.

4. Prevention of racial discrimination, including early warning measures and urgent action procedures.

5. Consideration of reports, comments and information submitted by States parties under article 9 of the Convention.

6. Submission of reports by States parties under article 9, paragraph 1, of the Convention.

7. Action by the General Assembly at its fifty-sixth session:

   (a) Annual report submitted by the Committee on the Elimination of Racial Discrimination under article 9, paragraph 2, of the Convention;

   (b) Effective implementation of international instruments on human rights.

8. Consideration of communications under article 14 of the Convention.

9. Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other territories in which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention.

10. Third Decade to Combat Racism and Racial Discrimination; follow-up to the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

11. Report of the Committee to the General Assembly at its fifty-seventh session under article 9, paragraph 2, of the Convention.

ANNEX III

DECISIONS OF THE COMMITTEE UNDER ARTICLE 14 OF THE CONVENTION

A. Sixtieth session

Opinion concerning communication No. 20/2000

Submitted by: M.B. (represented by counsel)

Alleged victim: The petitioner

State party: Denmark

Date of communication: 4 August 2000 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 13 March 2002,

Having concluded its consideration of communication No. 15/1999, submitted to the Committee under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it by the Author and the State party,

Bearing in mind rule 95 of its rules of procedure requiring it to formulate its opinion on the communication before it,

Adopts the following:

Opinion

1. The author of the communication, dated 4 August 2000, is M.B., a Brazilian citizen with permanent residence in Denmark, born in Denmark on 25 January 1975. She claims to be a victim of a violation by Denmark of article 2, paragraph 1 (d), and article 6 of the Convention. She is represented by counsel.

The facts as presented by the petitioner

2.1 On 20 August 1999, at approximately 11.30 p.m. the petitioner, her brother, a Danish citizen of Brazilian origin, and a friend, a black Brazilian, were waiting to enter the restaurant-discotheque "Etcetera" (hereafter, the restaurant), in the centre of Copenhagen. The doorman, Martin Andersen, told them, in Danish, that he could not let them enter because the

place was too crowded. Thinking that the doorman would inform them when they could enter, they decided to wait in front of the restaurant. When, shortly after, a group of about 8 people left the restaurant, they were not invited to enter. Later, as they were the only ones waiting, a group of about 6 Danish people arrived and were immediately allowed to enter. The doorman thereafter told the petitioner and her companions, in English: "You should not wait". They then left.

2.2 On 16 September 1999, the Documentary and Advisory Centre for Racial Discrimination in Copenhagen (DRC), an independent institution dealing with racial discrimination issues, reported the incident to the Danish police on behalf of the petitioner. On 10 January 2000, the Copenhagen police informed DRC that it had decided not to carry out further investigations, as it was found that the denial of entry could have been due to reasons other than racial discrimination, and regretted that the case had not been reported earlier. According to the same letter, the doorman of the restaurant had been interrogated but did not remember anything and stated that it was the practice of the restaurant to give priority to regular patrons. The police added that any claim for damages should therefore be pursued by civil proceedings.

2.3 On 25 January 2000, DRC, on behalf of the petitioner, brought the complaint to the District Public Prosecutor of Copenhagen. Referring to a previous decision taken by the Committee in the case L.K. v. the Netherlands,[1] it argued that the investigation led by the police could not be considered satisfactory since no further investigation had been carried out in relation to the doorman's statements. In a decision dated 6 March 2000, the District Public Prosecutor informed DRC that since the police had conducted a prompt investigation and interrogated nearly everyone involved, he had not found sufficient justification to overturn their decision. He also regretted that the incident had not been reported earlier. Finally, he mentioned that various people working at the restaurant all explained that it was usual to give priority to regular patrons and that, in the future, they would make this policy clearer to other patrons.

2.4 On 15 March 2000, DRC asked the Attorney-General whether, further to the statements explaining the practice of the restaurant to give priority to regular patrons, the police had investigated the ethnic background of regular patrons of the restaurant. On 12 May 2000, the District Public Prosecutor responded that nothing indicated that there had been racial discrimination since, on the night of 20 August 2000, the restaurant was crowded and such an investigation was therefore not necessary.

The complaint

3.1 Counsel argues that the State party has violated its obligations under article 2, paragraph 1 (d), and article 6 of the Convention. Referring to the Committee's jurisprudence in the cases L.K. v. the Netherlands and Habassi v. Denmark,[2] he further explains that these provisions imply positive obligations for States parties to take effective action further to such reported incidents, including an investigation into the real reasons behind the "treatment" of the petitioner in order to ascertain whether criteria involving racial discrimination have been applied.

3.2 In the present case, counsel argues that the State party has failed to conduct a proper investigation. In particular, three important questions have not been addressed by the Danish authorities in their investigation: (a) the mere fact that the employees of the restaurant stated that

there was no racial discrimination does not prove that racial discrimination has not taken place; (b) the police have not investigated the ethnic background of regular patrons of the restaurant; (c) how is it possible to become a regular patron if one is not allowed entry in the first place?

3.3 Counsel also argues that although only intentional racial discrimination is criminalized under Danish law, it would have been appropriate for the police to examine whether the alleged racial discrimination was intentional or unintentional, and that the State party should explain the evidence on the basis of which the police based their conclusions, other than the information received from the restaurant employees.

3.4 Counsel further points to a departmental notice of the Copenhagen police relating to investigations of alleged racial discrimination which expressly calls for "possible arbitrary questioning of visitors (for instance if it is alleged that only members or regular clients are let in)". The police have, however, not carried out such an investigation which, according to counsel, is contrary to the usual practice of the Copenhagen police in similar cases, regardless of whether the incident is reported immediately.

3.5 Counsel finally confirms that domestic remedies have been exhausted and that the matter is not pending before another procedure of international investigation or settlement.

Observations by the State party

4.1 In a submission dated 13 December 2000, the State party sent observations both on the admissibility and the merits of the communication.

4.2 The State party contends that the investigation carried out in the present case "fully satisf[ies] the requirements that can be inferred from the Convention as interpreted by the Committee's practice" and is in accordance with the principles laid down in the Committee's previous opinions on cases relating to the implementation of the articles of the Convention that allegedly have been violated.

4.3 The State party notes that the Copenhagen police conducted thorough and detailed interviews of all persons involved in the case, except the petitioner's Brazilian friend, despite difficulties resulting from the delay in reporting the incident. Moreover, considering the statements made by the three people working at the restaurant and the statement by the petitioner that the place was crowded on the night of the incident, the State party is of the opinion that the steps taken by the Copenhagen police were sufficient to determine whether racial discrimination had taken place.

4.4 The State party also points out that had the incident been reported immediately, the police could have investigated whether the group of persons who were allowed to enter before the petitioner and her companions were indeed regular patrons. In this respect, the State party notes that the departmental notice referred to by counsel prescribes that police must make a description and an inspection of the site, including interviews of the clientele, only when the police are present immediately after an incident of racial discrimination has occurred, which was not the case in the present situation.

4.5 With regard to the petitioner's claim that the police should have investigated the ethnic background of the patrons present in the restaurant, the State party argues that the purpose of the investigation is to assess whether the conditions of the criminal offence are present in the case and that the ethnic background of regular patrons of the restaurant in general is independent from this assessment.

4.6 With regard to the question of how it is possible to become a regular patron of the restaurant if one is not allowed to enter in the first place, the State party contends that the answer has no bearing on the issue of whether racial discrimination has effectively taken place in this case.

4.7 With regard to the distinction between intentional and unintentional discrimination, the State party notes that only intentional racial discrimination entails criminal liability in Denmark and that the police were therefore not under a duty to investigate whether alleged racial discrimination could have been unintentional.

4.8 Finally, the State party notes that, although it had not been mentioned in the decisions taken by both the Copenhagen police and the District Public Prosecutor, the petitioner's brother had expressly stated that, on the night of the incident, both Danes and foreigners were present in the restaurant. This demonstrates that no act of racial discrimination had been committed in the restaurant on the night of the incident and supports the decision taken by the Danish authorities to discontinue the investigation.

4.9 For the above reasons, the State party considers that the communication is inadmissible because the petitioner has failed to establish a prima facie case. However, if the Committee were to consider the case admissible, the State party submits that article 2, paragraph 1 (d), and article 6 of the Convention have not been violated.

Comments by the petitioner

5.1 In a submission dated 24 January 2001, counsel mentions a 2000 report of the Copenhagen police concerning a number of situations where the police had not challenged doormen's explanations for refusal of entry. The report states that ethnic minorities can expect the police to "... inspect the site to state whether discrimination has taken place" and that "[i]t can be difficult to see from a place and its guests whether there is a group which can be called 'regular clients'. The police can, however, investigate this by questioning. It should also be investigated whether there are ethnic minorities amongst the 'regular clients' ..." (translated from Danish by the petitioner). Furthermore, counsel considers that an immediate report of the incident would not have significantly changed the possibility for investigation since the issue was the existence of a regular practice of the restaurant to give priority to regular patrons, which could have been investigated at any time.

5.2 With regard to the departmental notice referred to under 3.4 and 4.4, counsel argues that the fact that it does not prescribe that police must make a description and an inspection of the site if they are not present immediately after an incident of alleged racial discrimination has occurred cannot justify the lack of any investigation in contravention of the Convention.

5.3 Counsel agrees that only intentional acts of racial discrimination constitute a criminal offence under Danish legislation but notes that racial discrimination by negligence is nevertheless also in violation of the Convention. He therefore maintains that the police should have investigated unintentional acts of racial discrimination.

5.4 Finally, counsel states that the statement by the petitioner's brother according to which there were both Danes and foreigners in the restaurant on the night of the incident does not necessarily lead to the conclusion that racial discrimination has not taken place. Moreover, it is submitted by counsel that a number of Danish discotheques have so-called "immigration quotas".

Consideration of admissibility

6. At its fifty-ninth session, the Committee examined the admissibility of the communication and duly considered the contention by the State party that the communication was inadmissible because the petitioner had failed to establish a prima facie case, but concluded that in view of the elements brought before it by the petitioner, the communication satisfied the conditions for admissibility. It thus declared the communication admissible on 13 August 2001.

Additional observations by the State party

7.1 By note verbale of 23 January 2002, the State party made additional observations on the merits of the case.

7.2 The State party first draws the attention of the Committee to the nature of the document referred to as the "2000 report" (para. 5.1). The document is a draft entitled "Strategy against Discrimination" elaborated in cooperation with the Documentation and Advisory Centre on Racial Discrimination in order to give guidelines to police officers in combating discrimination and racism. It contains a non-exhaustive list of examples of the most common reasons for denying access to places like discotheques and describes what the police do or should do when they have to deal with such cases. The document also reflects the high priority given by the Copenhagen police to the education of police officers on issues relating to discrimination.

7.3 The State party further reiterates that, in the present case, the doorman's explanations have indeed been challenged as all the persons involved, except the Brazilian's friend, have been interviewed by the police.

7.4 Finally, the State party emphasizes that the factual circumstances of the case have been reflected very briefly in the admissibility decision taken by the Committee and does not give a true and fair impression of the extent of the police investigation.

Consideration of the merits

8. Acting under article 14, paragraph 7 (a), of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee has considered all the information submitted by the petitioner and the State party.

9. Owing to the above-mentioned specific circumstances of the case, the police could not carry out a complete and in-depth investigation of the case. Therefore, the Committee has no elements at its disposal which would allow it to conclude that a violation by the State party of the provisions of the Convention has indeed taken place in this case.

10. However, the Committee wishes to emphasize the importance it attaches to the duty of the State party and, for that matter, of all States parties, to ensure, in particular by prompt and effective police investigations of complaints, that the right established under article 5 (f) of the Convention is enjoyed without discrimination by all persons, nationals or foreigners, under the jurisdiction of the State party.

Notes

[1] Case No. 4/1991, Views adopted on 16 March 1993

[2] Case No. 10/1997.

B. Sixty-first session

Opinion concerning communication No. 23/2002

Submitted by:	K.R.C. (represented by counsel)
Alleged victim:	The petitioner
State party:	Denmark
Date of communication:	2 January 2002 (initial submission)

The Committee on the Elimination of Racial Discrimination, established under article 8 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Meeting on 13 August 2002,

Having concluded its consideration of communication No. 23/2002, submitted to the Committee under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination,

Having taken into consideration all written information made available to it by the petitioner and the State party,

Adopts the following:

Decision on admissibility

1. The petitioner is K.R.C., a citizen of the United States currently residing as a permanent resident in Denmark. She claims to be a victim of a violation by Denmark of articles 2, paragraph 1 (d), and 6 of the International Convention on the Elimination of All Forms of Racial Discrimination. She is represented by counsel.

The facts as presented by the petitioner

2.1. In June 2000, the petitioner purchased a car at Brandt's Auto, in Denmark. The car dealers suggested approaching Sparekassen Vestsjælland ("the bank"), with which Brandt's Auto cooperated, for a loan. The petitioner thus contacted the bank for a loan application form. On 27 June 2000, she received the loan application form together with a letter from the bank.

2.2 As part of the standard information, it was indicated on the loan form that the person applying for a loan was to declare "that I am a Danish citizen". Further, the letter accompanying the application form stated: "You are kindly requested to hand in the application duly filled in, and enclose a copy of your Danish passport to the sales agent". As the petitioner is not a Danish citizen she was not able to sign the application form.

2.3 On 28 June 2000, the petitioner contacted the bank, explained that she was an American citizen and asked whether this would have any influence on her application. She was informed that if one did not have Danish citizenship, one could not apply for a loan. After having received this information, the petitioner contacted a friend who similarly asked the bank whether it was correct that non-Danish citizens could not apply for a car loan in the bank. She was informed that this was correct, and that the reason was that the bank did not have any possibility of collecting the loan if the individual left the country with the car. The petitioner's friend informed the bank that the petitioner had lived in Denmark for the last nine years, that she was from the United States of America, had had permanent employment for the last eight years, and was about to start in a new job at Novo Nordisk. The bank employee responded that she would talk to her superior and get back with an answer.

2.4 On the same day, the deputy head of the bank informed the petitioner's friend that the bank did not give loans to non-Danish citizens. However, as the petitioner was about to start as an employee at Novo Nordisk, he would try to find a solution and asked the petitioner to send the loan form together with evidence of her annual income to the bank. The petitioner did not send the application back as she believed that her chances of approval were slim. She applied and got a car loan from her own bank, at an interest rate 1 per cent higher than the loan from the first bank.

2.5 Following this incident, the petitioner reported the incident to the Documentation and Advisory Centre on Racial Discrimination (DRC)[1] in Copenhagen. DRC informed the bank that it was prohibited from requesting and using information about a person's citizenship when handling loan applications and requested it to remove the requirement of citizenship from the application form in question and from future application forms. The bank responded that it was not of the view that this requirement was illegal, and that although it might appear from the form that citizenship is a requirement for receiving a loan, that was not the case; nevertheless, it would remove the mention of citizenship from the forms.

2.6 By letter dated 6 September 2000, DRC wrote to the bank and requested it to compensate the petitioner for the difference in the cost of the loans - an amount of DKr. 10,180. In a letter of 12 September 2000, the bank replied that it was still of the opinion that the requirement of citizenship was not illegal and that it did actually offer the petitioner the loan, and hence had no obligation to provide her with compensation.

2.7 In a letter of 25 September 2000, DRC pointed out that the bank had made no offer of a loan to the petitioner and that given the response by the bank to the petitioner - that the bank did not offer loans to non-Danish citizens - it was fully understandable that the petitioner had not returned the loan application as she had no grounds to believe she would be granted the loan. DRC thus insisted that the bank should compensate the petitioner. It further stressed that if the bank refused to offer compensation, a complaint would be filed with the police.

2.8 By letter of 12 October 2000, the bank denied the request for compensation, informed DRC that it had several foreign citizens who had been granted loans and suggested that the petitioner move her loan to the bank. The bank did not agree to cover the expenses for transferring the loan.

2.9 On 8 October 2000, DRC reported the incident to the police department in Holbæk, expressing the view that the treatment of the petitioner violated the Danish Act on the prohibition of differential treatment on the basis of race ("the Act against Discrimination") which, it claims, partly implements the Convention in Danish law. By letter of 1 February 2001, the police informed DRC that the investigation of the case had been discontinued, as it considered that there was no reasonable evidence that an unlawful act had been committed. The police based their decision on the belief that the petitioner "was offered the loan on 28 June 2000 by the bank when she was asked to hand in her contract of employment and evidence of her annual income, to use with the normal assessment of applications. Because of time constraints she did not send the requested papers, but instead took a loan in another bank. Under these circumstances, it is [our] perception that there is no basis to press charges in the case, hence the investigation has been discontinued."

2.10 By letter of 28 February 2001, DRC, on behalf of the petitioner, complained to the Public Prosecutor for Sealand, claiming that the petitioner had not been treated on the same basis as Danes because of her ethnic origin. She thereby suffered an economic loss and a violation of her integrity. In a letter of 10 July 2001, the Public Prosecutor informed DRC that he did not see any reason for changing the police decision.

The complaint

3.1 The petitioner claims that she has exhausted domestic remedies as there is neither a possibility of appealing the decision of the Public Prosecutor nor of bringing the case before the Danish courts.

3.2 The petitioner also confirms that the subject of this communication has not nor is currently being examined by another international instance.

3.3 The petitioner claims that the State party has violated its obligations under article 2, paragraph 1 (d), and 6 of the Convention in not effectively investigating the reported incident of racial discrimination. The petitioner argues that following the decision of the Committee in L. K. v. the Netherlands[2] States parties have under these provisions a positive obligation to take effective action against reported incidents of racial discrimination. Alleged cases of discrimination must be taken seriously and must be investigated thoroughly by the national authorities.

3.4 The petitioner argues that although article 1, paragraph 2, stipulates that distinctions based on citizenship are not as such comprised within the definition of discrimination, if the application of a citizenship criterion in fact constitutes a distinction of the basis of, for example, national origin or colour, it may amount to discrimination within the terms of article 1, paragraph 1. In addition, the petitioner argues that if the application of the criterion of citizenship has the effect of discriminating against a person on the basis of race, national origin or colour, it may also constitute discrimination for the purposes of article 1, paragraph 1, of the Convention. In this regard, the petitioner refers to the case of Habassi v. Denmark.[3]

3.5 According to the petitioner, there is no indication that the police interviewed the parties involved, nor did they include anything else to support their decision except the material provided by DRC in its complaint to the police. In particular, the petitioner argues that the following issues should have been examined: first, to what extent were persons applying for loans requested to show their passports; second, to what extent does the bank grant loans to non-Danish citizens; third, on what grounds did the bank inform the petitioner that non-Danish citizens could not apply for a loan; fourth, to what extent does the bank grant loans to Danish citizens living abroad; fifth, whether an act of indirect and unintentional discrimination had taken place.

3.6. According to the petitioner, if loans were granted to citizens living abroad, the criterion of citizenship would in fact constitute racial discrimination or an act of discrimination on the basis of national origin or colour.

The States party's submission on the admissibility and merits of the communication

4.1 By letter of 25 March 2002, the State party made its submission on the admissibility and merits of the communication. On admissibility, the State party confirms that in relation to remedies under criminal law, the petitioner has exhausted domestic remedies. However, it argues that the petitioner has not exhausted all of the civil remedies available to her and therefore the communication should be declared inadmissible, under article 14, paragraph 7 (a), of the Convention as read with rule 91 (e) of the rules of procedure.

4.2 According to the State party, the petitioner could have brought an action against the bank, claiming that it acted in contravention of the law by exposing the petitioner to racial discrimination, and the petitioner can also claim damages for both pecuniary and non-pecuniary loss. According to the State party, this possibility is available whether or not the Public Prosecutor chooses to investigate the same matter or discontinues an investigation.

4.3 In its argument, the State party refers to Habassi v. Denmark where the Committee held, among other things, that the bringing of a civil action in a case of alleged discrimination contrary to the Act against Discrimination was not, in that particular case, an effective remedy. In that case, the petitioner claimed that a criminal act of discrimination had been committed, and the Committee attached decisive importance to the fact that the institution of civil proceedings could only lead to damages for non-pecuniary loss. The petitioner had not suffered a financial loss as the loan was subsequently granted in his wife's name.

4.4 In the case at hand, the petitioner claims to have suffered a financial loss, after obtaining a loan in another bank at a higher rate of interest. On her behalf, DRC requested compensation from the bank and in fact told the bank that it would only report the incident to the police if the petitioner were not granted compensation. The State party argues that by reporting the incident the petitioner could have established whether she had been exposed to discrimination and at the same time received redress. If the petitioner had been able to establish, on the balance of probabilities that she had been exposed to discrimination on the basis of race etc. it would be up to the defendant to substantiate, under the general rules of Danish law, on the burden of proof and standard of evidence, that the discrimination was not unlawful.

4.5 Furthermore, the State party claims that the petitioner could have instituted an action against the bank under the rules of the Danish Marketing Practices Act, as a private business may not perform acts contrary to "good marketing practices". In this case, the petitioner could have argued that the bank acted in contravention of the Act against Discrimination in its treatment of her loan application and that the bank had thus also acted in contravention of "good marketing practices". In this regard, the State party points to statements made by the Consumer Ombudsman who stated in a letter to DRC that if discrimination contrary to the Act against Discrimination or the Convention occurred, such discrimination might at the same time be a violation of section 1 of the Marketing Practices Act. If a violation of this Act is found it may give rise to a liability in damages.

4.6 On the merits, the State party contests the view that the investigations it carried out were inadequate. In its view, they were carried out with due diligence and speed and were sufficient to determine whether an act of racial discrimination had taken place.[4] According to the State party, as part of its investigation, the police examined all the documentation attached to the report lodged on the petitioners behalf and the correspondence between DRC and the bank, and interviewed the employee of the bank who had spoken to the petitioner. During this interview, they were informed of the bank's views on the specific case and provided with information on the loan policy of the bank generally, including the use of nationality as a criterion for granting loans.

4.7 In response to the petitioner's claim that certain issues (outlined in paragraph 3.5) were not raised by the investigative authorities, the State party responds as follows. On the issue of whether the authorities should have requested information on the extent to which other applicants were requested to supply a copy of their Danish passport and the extent to which the bank had granted loans to foreigners and Danish nationals abroad, the State party is of the view that it was not the task of the police to investigate the policy of the bank generally as it relates to such requests, but rather whether the bank violated the Act against Discrimination with respect to the petitioner's loan application.

4.8 On the issue of why the police did not investigate the grounds upon which the petitioner was informed that she could not apply for a loan, the State party notes that both the police and the Public Prosecutor found that the petitioner had been offered a loan and that, in addition, the Public Prosecutor emphasized that the information concerned was given by telephone/orally, making it difficult to prove what was in fact said - including whether what was said was taken out of context. He also found that he could not preclude the possibility that the information on nationality was provided as a piece of information among other elements in credit assessment and not an expression of a condition. According to the State party, this position is clearly supported by the police interview of the bank's employee.

4.9 On the question of whether the authorities should have investigated whether indirect and unintentional discrimination had taken place, the State party argues that the Act against Discrimination only covers intentional violations and does not distinguish between direct and indirect discrimination.

4.10 The State party submits that not only does the Government find that the police conducted a serious and thorough investigation, but that the Public Prosecutor assessed the case correctly. The State party explains that article 1 of the Act against Discrimination covers cases where a person "refuses to serve" another person on the same conditions as others due to race etc. The State party notes that the petitioner believed that her chances of obtaining a loan were slim and that therefore she did not forward the application to the bank. However, it appears from the investigations that the petitioner received no definitive answer from the bank on whether her non-Danish nationality would be used against her in its credit assessment. The petitioner's only direct contact with the bank took place on 28 June 2000, which was an introductory inquiry ending in a request to forward a loan application. The State party argues that as the petitioner did not actually forward her loan application to the bank it was never in a position to refuse the application and therefore did not refuse to serve her on the same conditions as others.

Comments by the petitioner

5.1 On the State party's reference to Habassi v. Denmark, the petitioner contests that the facts of this case differ substantially. In the opinion of the petitioner, the objective of the complaint was not, as the State party claims, to seek compensation; in her opinion, this is clear from the complaint sent to the police from DRC stating that it believed that the bank had violated the Act against Discrimination.

5.2 On the issue of the possibility of taking an action under the Marketing Practices Act, the petitioner asserts that DRC also requested the police to investigate under the Act. Subsequently, in a letter to DRC the Ombudsman stated that the inclusion of the question of citizenship with regard to credit assessment violates the rules of the Marketing Practices Act.[5] Therefore, in the petitioner's view domestic remedies have been exhausted in this case.

Issues and proceedings before the Committee

6.1 Before considering any claims contained in a communication, the Committee on the Elimination of Racial Discrimination must, in accordance with rule 91 of its rules of procedure, decide whether or not it is admissible under the Convention.

6.2 The Committee notes that the petitioner received a loan application form from Sparekassen Vestsjælland [Vestsjælland Savings Bank], containing the clause against which she objects, but that she was subsequently orally informed that the bank's assistant director would try to find a solution, since she was going to be employed by Novo Nordisk (paras. 2.3 and 2.4). However, the petitioner did not send in the application form, believing that she had only a slight chance of obtaining the loan. Considering the petitioner's lack of perseverance and notwithstanding the eventual deficiencies in the bank's form, the act of refusal by the bank which, according to the petitioner, would have been contrary to the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, was not accomplished. In the absence of the establishment of the existence of the facts giving rise to the complaint, The Committee concludes that the communication is inadmissible:

6.3 The Committee on the Elimination of Racial Discrimination therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be transmitted to the State party and to the petitioner.

Notes

[1] The Documentation and Advisory Centre on Racial Discrimination is an independent institution working on issues relating to racial discrimination under relevant rules of international law. It carries out fact-finding in reported cases of racial discrimination and gives advice, guidance and legal assistance to persons who claim to be victims of racial discrimination or have witnessed racial discrimination.

[2] Case No. 4/1991, Views adopted on 16 March 1993.

[3] Case No. 10/1997, Views adopted on 17 March 1999.

[4] The State party refers to the Committee's jurisprudence on this issue: case No. 1/84, Yilmaz v. the Netherlands, Views adopted on 10 August 1988; case No. 4/1991, L.K. v. the Netherlands, Views adopted on 16 March 1993; case No. 10/1997, Habassi v. Denmark, Views adopted on 17 March 1999 and case No. 16/1999, Ahmad v. Denmark, Views adopted on 13 March 2000.

[5] The petitioner makes no reference to the question of compensation in this regard.

ANNEX IV

DOCUMENTS RECEIVED BY THE COMMITTEE AT ITS SIXTIETH AND SIXTY-FIRST SESSIONS IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

The following is a list of the working papers referred to in chapter V submitted by the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples:

Pitcairn	A/AC.109/2001/2
United States Virgin Islands	A/AC.109/2001/3
Guam	A/AC.109/2001/4
Tokelau	A/AC.109/2001/5
Montserrat	A/AC.109/2001/6
Turks and Caicos Islands	A/AC.109/2001/7
British Virgin Islands	A/AC.109/2001/8
Bermuda	A/AC.109/2001/9
Gibraltar	A/AC.109/2001/10
Falkland Islands (Malvinas)	A/AC.109/2001/11
Western Sahara	A/AC.109/2001/12
Anguilla	A/AC.109/2001/13
New Caledonia	A/AC.109/2001/14
Cayman Islands	A/AC.109/2001/15
St. Helena	A/AC.109/2001/16
American Samoa	A/AC.109/2001/17
East Timor	A/AC.109/2001/18

ANNEX V

COUNTRY RAPPORTEURS FOR REPORTS OF STATES PARTIES CONSIDERED BY THE COMMITTEE AT ITS SIXTIETH AND SIXTY-FIRST SESSIONS

Initial and periodic reports considered by the Committee	Country rapporteur
Armenia Third and fourth periodic reports (CERD/C/372/Add.3)	Mr. Yutzis
Austria Fourteenth periodic report (CERD/C/362/Add.7)	Mr. Yutzis
Belgium Eleventh to thirteenth periodic reports (CERD/C/381/Add.1)	Mr. Diaconu
Botswana Sixth to fourteenth periodic reports (CERD/C/407/Add.1)	Mr. Pillai
Canada Thirteenth to fourteenth periodic reports (CERD/C/320/Add.5)	Mr. Herndl
Costa Rica Sixteenth periodic report (CERD/C/384/Add.5)	Mr. Valencia Rodríguez
Croatia Fourth to fifth periodic reports (CERD/C/373/Add.1)	Mr. Thornberry
Denmark Fifteenth periodic report (CERD/C/408/Add.1)	Ms. January-Bardill
Estonia Fifth periodic report (CERD/C/373/Add.2)	Mr. Kjaerum

Hungary Fourteenth to seventeenth periodic reports (CERD/C/431/Add.1)	Mr. Sicilianos
Jamaica Eighth to fifteenth periodic reports (CERD/C/383/Add.1)	Mr. Reshetov
Liechtenstein Initial report (CERD/C/394/Add.1)	Mr. Herndl
Lithuania Initial report (CERD/C/369/Add.2)	Mr. Fall
Mali Seventh to fourteenth periodic reports (CERD/C/407/Add.2)	Mr. de Gouttes
Moldova Initial to fourth periodic reports (CERD/C/372/Add.2)	Mr. Pillai
New Zealand Twelfth to fourteenth periodic reports (CERD/C/362/Add.10)	Mr. Thornberry
Qatar Ninth to twelfth periodic reports (CERD/C/360/Add.1)	Mr. de Gouttes
Senegal Eleventh to fifteenth periodic reports (CERD/C/408/Add.2)	Mr. Amir
Switzerland Second to third periodic reports (CERD/C/351/Add.2)	Mr. Tang
Uganda Second to tenth periodic reports (CERD/C/358/Add.1)	Mr. Valencia Rodríguez
Yemen Eleventh to fourteenth periodic reports (CERD/C/362/Add.8)	Mr. Reshetov

ANNEX VI

COMMENTS OF STATES PARTIES ON THE CONCLUDING OBSERVATIONS ADOPTED BY THE COMMITTEE

The seventh to fourteenth periodic reports of Mali*

The following letter dated 6 September 2002 was addressed to the Chairman of the Committee by the Permanent Representative of Mali to the United Nations Office at Geneva:

"Dear Mr. Chairman,

"We have taken note of the concluding observations adopted by your Committee following the consideration of the [seventh to] fourteenth periodic reports submitted by Mali.

"We welcome the general content of your concluding observations, in particular the positive aspects noted by the Committee.

"However, we believe it would be useful to draw your attention to certain important elements which were examined in depth during the consideration of the report, namely:

"1. The situation in the north of Mali:

The current situation in Mali is fully described in paragraphs 39-41 of the report and was confirmed in our presentation to the Committee on 20 and 21 August 2002.

In order to avoid any ambiguity concerning this important matter, we suggest that paragraph 4 of the concluding observations [para. 394 above] adopted by the Committee be modified so that it better reflects the reality and the discussions which took place on this issue: instead of '... and gives reassurances concerning solutions to the situation in the north of the country' read ' ... and welcomes the definitive resolution of the question of the north of the country'.

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* See paragraphs 391-411 of the present report.

"2. The situation of particularly vulnerable persons, in particular child victims of exploitation talibé or garibou children and rural women.

The very detailed description of this situation in paragraphs 42-51 of the report was sufficiently supplemented during our presentations of 20 and 21 August 2002.

Unfortunately, paragraph 15 [para. 405 above] of your concluding observations does not seem to take into account the explanations provided, in particular the efforts made by Mali for vulnerable populations at the institutional as well as international level.

"We would be grateful if you could include the present letter in the final report of the Committee.

"Please find attached to the present letter* the notes of our presentation of the report and the replies provided on 20 and 21 August 2002 by the delegation of Mali.

"Accept, Sir, the assurances of my highest consideration.

(Signed) Sinaly COULIBALY
Chevalier de l'Ordre National
Ambassador
Permanent Representative"

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* Attachments available in the files of the secretariat.

ANNEX VII

LIST OF DOCUMENTS ISSUED FOR THE SIXTIETH AND SIXTY-FIRST SESSIONS OF THE COMMITTEE*

CERD/C/412	Provisional agenda and annotations of the sixtieth session of the Committee
CERD/C/413	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the sixty-first session of the Committee
CERD/C/414	Consideration of copies of petitions, copies of reports and other information relating to Trust and Non-Self-Governing Territories and to all other Territories to which General Assembly resolution 1514 (XV) applies, in conformity with article 15 of the Convention
CERD/C/432	Provisional agenda and annotations of the sixty-first session of the Committee
CERD/C/433	Submission of reports by States parties under article 9, paragraph 1, of the Convention for the sixty-first session of the Committee
CERD/C/SR.1494-1523	Summary records of the sixtieth session of the Committee
CERD/C/SR.1524-1549	Summary records of the sixty-first session of the Committee
CERD/C/60/CO/1	Concluding observations of the Committee on the Elimination of Racial Discrimination - Austria
CERD/C/60/CO/2	Concluding observations of the Committee on the Elimination of Racial Discrimination - Belgium
CERD/C/60/CO/3	Concluding observations of the Committee on the Elimination of Racial Discrimination - Costa Rica
CERD/C/60/CO/4	Concluding observations of the Committee on the Elimination of Racial Discrimination - Croatia
CERD/C/60/CO/5	Concluding observations of the Committee on the Elimination of Racial Discrimination - Denmark

* This list only concerns documents issued for general distribution.

CERD/C/60/CO/6	Concluding observations of the Committee on the Elimination of Racial Discrimination - Jamaica
CERD/C/60/CO/7	Concluding observations of the Committee on the Elimination of Racial Discrimination - Liechtenstein
CERD/C/60/CO/8	Concluding observations of the Committee on the Elimination of Racial Discrimination - Lithuania
CERD/C/60/CO/9	Concluding observations of the Committee on the Elimination of Racial Discrimination - Republic of Moldova
CERD/C/60/CO/10	Decision 1 (60) on Papua New Guinea
CERD/C/60/CO/11	Concluding observations of the Committee on the Elimination of Racial Discrimination - Qatar
CERD/C/60/CO/12	Concluding observations of the Committee on the Elimination of Racial Discrimination - Solomon Islands
CERD/C/60/CO/13	Concluding observations of the Committee on the Elimination of Racial Discrimination - Saint Vincent and the Grenadines
CERD/C/60/CO/14	Concluding observations of the Committee on the Elimination of Racial Discrimination - Switzerland
CERD/C/60/CO/15	Concluding observations of the Committee on the Elimination of Racial Discrimination - Turkmenistan
CERD/C/61/CO/1	Concluding observations of the Committee on the Elimination of Racial Discrimination - Armenia
CERD/C/61/CO/2	Concluding observations of the Committee on the Elimination of Racial Discrimination - Botswana
CERD/C/61/CO/3	Concluding observations of the Committee on the Elimination of Racial Discrimination - Canada
CERD/C/61/CO/4	Concluding observations of the Committee on the Elimination of Racial Discrimination - Estonia
CERD/C/61/CO/5	Preliminary dialogue of the Committee with representatives of the Government - Fiji
CERD/C/61/CO/6	Concluding observations of the Committee on the Elimination of Racial Discrimination - Hungary

CERD/C/61/CO/7	Concluding observations of the Committee on the Elimination of Racial Discrimination - Mali
CERD/C/61/CO/8	Concluding observations of the Committee on the Elimination of Racial Discrimination - New Zealand
CERD/C/61/CO/9	Concluding observations of the Committee on the Elimination of Racial Discrimination - Senegal
CERD/C/61/CO/10	Concluding observations of the Committee on the Elimination of Racial Discrimination - Yemen
CERD/C/360/Add.1	Ninth to twelfth periodic reports of Qatar submitted in one document
CERD/C/320/ Add.5	Thirteenth to fourteenth periodic reports of Canada submitted in one document
CERD/C/351/Add.2	Second to third periodic reports of Switzerland
CERD/C/358/Add.1	Second to tenth periodic reports of Uganda submitted in one document
CERD/C/362/Add.7	Fourteenth periodic report of Austria
CERD/C/362/Add.8	Eleventh to fourteenth periodic reports of Yemen submitted in one document
CERD/C/362/Add.10	Twelfth to fourteenth periodic reports of New Zealand submitted in one document
CERD/C/369/Add.2	Initial periodic report of Lithuania submitted in one document
CERD/C/370/Add.1	Initial and second periodic reports of Saudi Arabia
CERD/C/372/Add.2	Initial to fourth periodic reports of Moldova submitted in one document
CERD/C/372/Add.3	Third to fourth periodic reports of Armenia submitted in one document
CERD/C/373/Add.1	Fourth to fifth periodic reports of Croatia
CERD/C/373/Add.2	Fifth periodic report of Estonia
CERD/C/381/Add.1	Eleventh to thirteenth periodic reports of Belgium
CERD/C/383/Add.1	Eighth to fifteenth periodic reports of Jamaica

CERD/C/384/Add.5	Sixteenth periodic report of Costa Rica
CERD/C/394/Add.1	Initial periodic report of Liechtenstein
CERD/C/407/Add.1	Sixth to fourteenth periodic reports of Botswana submitted in one document
CERD/C/407/Add.2	Seventh to fourteenth periodic reports of Mali submitted in one document
CERD/C/408/Add.1	Fifteenth periodic report of Denmark
CERD/C/408/Add.2	Eleventh to fifteenth periodic reports of Senegal submitted in one document
CERD/C/431/Add.1	Fourteenth to seventeenth periodic reports of Hungary submitted in one document

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